THE LEGISLATIVE ACTS

OF THE

GOVERNOR GENERAL OF INDIA IN COUNCIL,

1849—1855,

WITH

AN ANALYTICAL ABSTRACT PREFIXED TO EACH ACT, AND A COPIOUS INDEX.

BY

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1860.

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Since the present volume was published, Mr Theobald has prepared a List of the Acts contained in it, which have been repealed, amended or otherwise dealt with, and the List will be found after the Table of Contents.

March 30, 1860

LIST OF ACTS CONTAINED IN THIS VOLUME WHICH HAVE BEEN REPEALED, AMENDED OR MODIFIED, UP TO THE 1ST JANUARY, 1860.

ADMINISTRATOR GENERAL.

ACT No. VII. OF 1849.

Act II. 1850 is an Act to amend and extend to Madras and Bombay Act VII. 1849.

By Act VIII. 1855. s. 56, both those Acts are repealed as to all letters of administration thereafter to be applied for or granted.

MADRAS. POLICE MAGISTRATES.

ACT No. VIII. OF 1849.

Repealed by Act XIII. 1856.

CALCUTTA. ABKAREE EXCISE.

ACT No. XI. OF 1849.

Act III. 1856 is entitled "An Act to amend Act No. XI. 1849 and Act No. XIX. of 1852."

The amendment is, as to the Powers of the Commissioner of Revenue and Commissioner of Abkarree.

And Act XVIII. 1856 authorizes the Collector to employ a Deputy Collector in performance of his duties under Act XI. 1849.

XII. Is repealed by Act XIII. 1856.

XIX. Is amended by Act III. 1856, s. 2.

CALCUTTA. LAND FOR PUBLIC PURPOSES.

ACT No. I. OF 1850.

Repealed by Act VI. 1857.

MADRAS & BOMBAY.

ACT No. II. OF 1850.

Repealed by Act VIII. 1855, s. 56, as to all letters of Administration thereafter to be applied for or granted.

MADRAS. JUDICIARY.

ACT No. III. OF 1850.

Superseded by Act VIII. 1859, the new Code of Civil Procedure.

BENGAL JUDICIARY.

ACT No. IV. OF 1850.

Repealed by Act XV. 1853, s. 1.

The Procedure in cases of Appeal is now provided in Act VIII. 1859.

CRIMINAL LAW.

ACT No. VII. OF 1850.

II. By Act IV. 1859 the removal of a prisoner under sentence may be to any other prison in the Indian Territories of H. M.

BENGAL APPEALS.

ACT No. VIII. OF 1850.

Superseded by Act VIII. 1859, the new Penal Code of Procedure.

SMALL CAUSE COURT ACT.

ACT No. IX. OF 1850.

Amended by Act XX. 1857, as respects diet-money of prisoners.

STRAITS SETTLEMENTS. CRIMINAL LAW.

ACT No. XIV. OF 1850.

Repealed by Act XIII. 1856.

BENGAL. MOONSIFFS.

ACT No. XV. OF 1850.

Superseded by Act VIII. 1859, Code of Civil Procedure.

CRIMINAL LAW.

ACT No. XVI. OF 1850.

Extended by Act IV. 1856, to persons convicted of Cattle killing.

BOMBAY & COLABA.

ACT No. XVII. OF 1850.

Repealed by Act VI. 1857.

GOVERNOR GENERAL.

ACT No. XXII. OF 1850.

Expired.

CALCUTTA. LAND REVENUE.

ACT No. XXIII. OF 1850.

By Act XVIII. 1856, Collector may employ Deputy Collectors.

BOMBAY. CUSTOMS.

ACT No. XXIV. OF 1850.

Repealed by Act IV. 1857.

BENGAL. LAND REVENUE.

ACT No. XXV. OF 1850.

Superseded by Act VIII. 1859, the new Code of Civil Procedure.

MERCHANT SEAMEN. REGISTRY.

ACT No. XXVII. OF 1850.

Repealed by Act I. 1859, s. 1.

MERCHANT SEAMEN.

ACT No. XXVIII. OF 1850.

Repealed by Act I. 1859, s. 1.

PLEADERS. APPEALS.

ACT No. XXX. OF 1850.

II. III. and IV. Repealed by Act XV., s. 1, 1853.

STATE PRISONERS.

ACT No. XXXIV. OF 1850.

Supplemented by Act III. 1858.

STRAITS SETTLEMENTS. PAWNBROKERS.

ACT No. XL. OF 1850.

Repealed by Act XIII. 1856.

BENGAL. PUBLIC WORKS & RAILWAYS.

ACT No. XLII. OF 1850.

By Act XX. 1852, s. 20, extended to Presidency of Madras; and repealed by Act IV. 1857.

REGISTRATION OF JOINT STOCK COMPANIES.

ACT No. XLIII. OF 1850.

Repealed by Act XIX. 1857, s. 98.

BENGAL. FINES.

ACT No. I. OF 1851.

Repealed by Act XII. 1859, s. 1.

SIR THOMAS TURTON.

ACT No. V. OF 1851.

Amended by Act XIII. 1851.

BOMBAY. DECREES.

ACT No. VII. OF 1851.

Superseded by Act VIII. 1859, the new Code of Civil Procedure.

BOMBAY. GAMBLING.

ACT No. IX. OF 1851.

Repealed by Act XIII. 1856, Schedule.

ADMINISTRATION OF ESTATES.

ACT No. X. OF 1851.

Explained and amended together with Act XX. 1841, by Act VIII. 1854.

STRAITS SETTLEMENTS. EXCISE LAW.

ACT No. XIV. OF 1851.

s. VIII. Repealed by Act XIII. 1856, Schedule.

BOMBAY. CUSTOMS ACT.

ACT No. I. OF 1852.

ss. XVIII. XIX. XXXV. Repealed as respects the ports of Arracan and the Tenasserim Provinces, by Act XXX. 1854, s. 1.

XXI. and Schedule C. Repealed by Act XXII. 1851, s. 1.

XXXIX. Repealed by Act XXII. 1855, s. 2.

Schedules A. and B. Repealed by Act VII. 1859, except as respects Salt and Opium.

Schedule C. Repealed by Act XXII. 1855, s. 1.

BOMBAY. LAND CUSTOMS.

ACT No. II. OF 1852.

Repealed by Act XXIX. 1857.

BOMBAY. SPIRITUOUS LIQUORS.

ACT No. III. OF 1852.

Extended by Act XXXIV. 1857, to Presidency town of Bombay.

I. Further powers given to G. in C. by Act XXII. 1859, s. 3.

HORSBURGH LIGHT HOUSE.

ACT No. VI. OF 1852.

Repealed by Act XIII. 1854, except as to acts already done, or tolls due, or proceedings already taken.

CALCUTTA. MUNICIPAL COMMISSIONERS.

ACT No. X. OF 1852.

Repealed by Act XXVIII. 1856.

CALCUTTA. MUNICIPAL COMMISSIONERS.

ACT No. XII. OF 1852.

Repealed (except s. 50,) by Act XIV. 1856, Schedule; and s. 50, repealed by Act XXVIII. 1856.

CALCUTTA POLICE.

ACT No. XIII. OF 1852.

Repealed by Act XIII. 1856, Schedule.

LAW OF EVIDENCE.

ACT No. XV. OF 1852.

VI. The proviso at the end of this Section is repealed by Act II. 1855, s. 52.

TOWN OF MADRAS. ABKARRY REVENUE.

ACT No. XIX. OF 1852.

Amended by Act III. 1856.

XII. Repealed by Act XIII. 1856.

XIX. Amended by Act III. 1856, s. 2. and subsequently repealed by Act XIII. 1856.

MADRAS. PUBLIC WORKS.

ACT No. XX. OF 1852.

Extended to town of Madras by Act I. 1854, and repealed by Act VI. 1857.

BENGAL. JUDICIARY. EXECUTION OF DECREES.

ACT No. XXV. OF 1852.

Superseded by Act VIII. 1859, new Code of Civil Procedure.

BENGAL. PROCEDURE OF SUDDER AMEENS & MOONSIFFS

ACT No. XXVI OF 1852.

Superseded by Act VIII. 1859, new Code of Civil Procedure.

JUDICIAL.

ACT No. XXXIII. OF 1852.

Explained and amended by Act XXXIV. 1855.

STRAITS SETTLEMENTS. GAMBLING.

ACT No. XXXIV. OF 1852.

Repealed by Act XIII. 1856.

GREAT INDIAN PENINSULAR RAILWAY COMPANY

ACT No. III. OF 1853.

Repealed by Act XIV. 1854.

BENGAL. SUMMARY SUITS & SALES OF PUTNEE TALOOKS IN EXECUTION.

ACT No. VI. OF 1853.

By Act IX. 1853, (An Act to amend Act VI. 1853,) cases up to a certain date are taken out of the operation of the first 8 sections of this Act.

BOMBAY & COLABA NUISANCES.

ACT No. XI. OF 1853.

Repealed by Act XXII. 1855, s. 2, as respects nuisances to the navigation of the port.

GREAT INDIAN PENINSULAR RAILWAY COMPANY.

ACT No. XII. OF 1853.

Repealed by Act XVIII. 1854, s. 39.

BENGAL. REGULAR APPEALS.

ACT No. XV. OF 1853.

Superseded by Act VIII. 1859, the new Code of Civil Procedure.

SPECIAL APPEALS.

ACT No. XVI. OF 1853.

Superseded by Act VIII. 1859, the new Code of Civil Procedure.

BENGAL. E. I. CO.'S COURTS. EVIDENCE.

ACT No. XIX. OF 1853.

Act II. 1855, is An Act for the further improvement of the Law of Evidence, See also Act VIII. 1859, as to Procedure.

MADRAS. LAND FOR PUBLIC WORKS.

ACT No. I. OF 1854.

Repealed by Act VI. 1857.

SUPREME COURTS. BENGAL, MADRAS & BOMBAY. EQUITY PROCEDURE.

ACT No. VI. OF 1854.

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XXXIII. Extended to all sides of the Court by Act II. 1855, s. 55.

FUGITIVE FOREIGN OFFENDERS.

ACT No. VII. OF 1854.

Supplemented and extended by Act XVII. 1856.

BORNEO COMMISSION. SIR J. BROOKE.

ACT No. XV. OF 1854.

Expired.

BANKS OF BENGAL, MADRAS & BOMBAY.

ACT No. XXI. OF 1854.

Act XXVII. 1855, is An Act to enable these Banks to transact certain business are Government Securities and Bank Shares.

MALABAR. THE MOPLAS.

ACT No. XXIII. OF 1854.

Declared retrospectively to take effect from the 1st March 1855, by Act V. 1856. And by same Act extended to other offences. And subsequently (that is, by Act XX. 1859,) repealed and new provisions made.

MALABAR. WAR KNIVES.

ACT No. XXIII. OF 1854.

Repealed by Act XX. 1859.

CALCUTTA. MUNICIPAL.

ACT No. XXVIII. OF 1854.

Repealed by Act XXVIII. 1856.

SALTPETRE.

ACT No. XXIX. OF 1854.

Annulled.

ARRACAN, PEGU, MARTABAN, TENASSERIM PROVINCES. CUSTOMS DUTIES.

ACT No. XXX. OF 1854.

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Expired.

JUDICIAL LANGUAGE.

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GOVERNOR GENERAL.

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Expired.

ADMINISTRATORS GENERAL.

ACT No. VIII. OF 1855.

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ACT No. IX. OF 1855.

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PORTS & PORT DUES.

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XVI. XXIV. Extended by Act XVIII. 1858.

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BENGAL. THE SONTHALS & THE DISTURBED DISTRICTS.

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ACT No. XXXIV. OF 1855.

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BENGAL. THE SONTHAL DISTRICTS.

ACT No. XXXVII. OF 1855.

Partially repealed by Act X. 1857, and amended.

SALTPETRE.

ACT No. XXXIII. OF 1855.

Repealed by G. G. in C.

THE ACTS

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BENGAL SECRETARIAT LIBRARY

THE STATUTES OR ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

CRIMINAL LAW—FOREIGN STATES.

ACT No. I. OF 1849.

[*Passed on the 27th January*, 1849.

Recites expediency of uniformity of law for trial of Native Subjects for offences in Foreign States.

1. *Repeals R.* 5, 1809; *R.* 8, 1813; *S.* 6, *R.* 1, 1822; *R.* 9, 1822; *R.* 8, 1829; *of Bengal Code: R.* 2, 1829; *R.* 12, 1832, *of Madras Code: and S.* 4, *R.* 11, 1827 *of Bombay Code.*

2. *Enacts. All subjects of the Government, and all in Civil or Military Service, while in service, and for six months afterwards, &c. shall be amenable to the law for all offences committed within foreign territory, and may be bailed or committed, &c.*

3. *Committing Magistrate, before trial, to report case to Government, and obey orders of Government.*

4. *Government may order trial to be had before what tribunal.*

5. *If offence charged was committed in foreign territory administered by Officer of E. I. C., &c. offender may be sent back to such territory for trial.*

6. *What the warrant of commitment and what the bail-bond shall express: bail-bond may be renewed.*

7. *Order of Government sufficient authority for trial within British territories or conveyance out of.*

8. *Interpretation of word "Government."*

9. *Commissioner or other officer delegated by Government; may exercise these powers.*

An Act to provide more effectually for the punishment of offences committed in Foreign States.

Whereas divers Regulations of the Bengal, Madras, and Bombay Codes have been made from time to time for the trial of Native Subjects of the British Government, committing criminal offences beyond the limits of the British Provinces, and it is expedient to make the same more effectual and uniform, and to extend the application thereof, It is enacted as follows:

I. The undermentioned Regulations and parts of Regulations are rescinded, that is to say:

Regulation V. of 1809, Regulation VIII. of 1813, Section VI. of Regulation I. and the whole of Regulation IX. of 1822, and Regulation VIII. of 1829, of the Bengal Code; Regulation II. of 1829, and Regulation XII. of 1832, of the Madras Code: Section IV. of Regulation XI. of 1827, of the Bombay Code; except so far as any of them rescinds any former Regulation.

II. All subjects of the British Government, and also all persons in the Civil or Military Service of the said Government, while actually in such service, and for six months afterwards, and also all persons who shall have dwelt for six months within the British Territories under the Government of the East India Company, subject to the laws of the said Territories, who shall be apprehended within the said Territories, or delivered into the custody of a Magistrate within the said Territories, wherever apprehended, shall be amenable to the law for all offences committed by them within the Territory of any Foreign Prince or State; and may be bailed or committed for trial as hereafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence, if it had been committed within the British Territories.

III. The Committing Magistrate, immediately, and before the trial, shall report every such case to the Government, and shall obey the orders which he shall receive thereon.

IV. The Government may order the trial to be had before one of the established Courts of Criminal Judicature, which would be competent to try the person charged for the offence, if it had been committed within the British Territories.

V. When the offence is charged to have been committed in the Territory of any Foreign Prince or State, administered by Officers acting under the authority of the East India Company, in which Territory a Court competent to try the person charged for the offence, is established by authority of the Governor General of India in Council, the Government may order such person to be coveyed in custody out of the British Territories, for the purpose of delivering him up for trial before such Court.

VI. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of

Government can be received and acted on; when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before the Magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of Government, and on such subsequent days as the Magistrate from time to time shall require, and if Government shall order the person charged to be tried within the Presidency, the Magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

VII. In either case, the special order of the Government shall be deemed full authority, either for the trial and punishment of the person charged within the British Territories, or for conveying him in custody out of the British Territories, as aforesaid.

VIII. The word 'Government' as used in the third and following Sections of this Act, means the Governor or Governor in Council, or other person or persons having supreme executive authority in the presidency or place to which the committing Magistrate belongs.

IX. The authority hereinbefore given to the Government may be also exercised by any Commissioner or other person acting in the Civil Service of the East India Company, to whom the Governor General in Council shall have delegated authority to receive reports and give orders in cases within this Act.

BRANDING CONVICTS.

ACT No. II. OF 1849.

[*Passed on the 27th January*, 1849.

Recites expediency of abolishing practice of branding, &c. convicts.

1. *Repeals S.* 11, *R.* 4, 1797; *S.* 35, *R.* 7, 1803; *clauses* 2, 3, 4, *S.* 12, *R.* 17, 1817 *of Bengal Code: S* 35, *R.* 7, 1802 *of Madras Code: part of clause* 1, *S.* 3, *R.* 2, 1807 *and of Ss.* 9 *and* 10, *R.* 17, 1817 *of Bengal Code: part of S.* 3, *R.* 6, 1811 *and Ss.* 5, 6, *R.* 2, 1822 *of Madras Code: and all other regulations for fixing indelible marks, &c. and part of Chap* 2, *R.* 14, 1827, *of Bombay Code.*

2. *Prohibits branding or order for indelibly marking or exposing by Tusheer, &c. of any convicted offender.*

To abolish the practice of branding and exposing Convicts.

Whereas it is thought fit to abolish wholly the practice of branding and publicly exposing Convicts throughout the Territories under the Government of the East India Company, It is enacted as follows:

I. Section XI. Regulation IV. 1797, Section XXXV. Regulation VII. 1803, and Clauses Second, Third and Fourth, Section XII. Regulation XVII. 1817, of the Bengal Code, Section XXXV. Regulation VII. 1802, of the Madras Code, and so much of Clause First, Section III. Regulation II. of 1807, and of Sections IX. and X. Regulation XVII. of 1817, of the Bengal Code, so much of Section III. Regulation VI. of 1811, and Sections V. VI. Regulation II. of 1822, of the Madras Code, and all other Regulations or parts of Regulations in force, directing that any convicted offenders shall have any indelible mark made upon their foreheads, or on any part of their persons, or authorizing any sentence of public exposure, commonly called Tusheer, and so much of Chapter II. Regulation XIV. of 1827, of the Bombay Code, as authorizes any sentence of public disgrace, are rescinded.

II. After the passing of this Act it shall not be lawful for any Court or Magistrate within the Territories under the Government of the East India Company, to order that any brand or indelible mark of any kind be made, or renewed on any part of the person of any convicted offender or to sentence any offender to be publicly exposed by Tusheer, or to any other degrading exposure.

UNION BANK, CALCUTTA.

ACT No. III. OF 1849.

[*Passed on the* 10*th February*, 1849.

Recites Act 23, 1845 *for Incorporation of Union Bank of Calcutta, and recites Memorial to G. G. in Council by Executive Committee of Bank and by creditors of Bank; setting forth that Bank had suspended payment, and an arrangement proposed to be made with creditors, and praying powers to give effect to such arrangement.*

1. *Gives validity to recited agreement as between all parties executing it.*
2. *Bars creditors who execute the agreement from general legal remedies.*
3. *Agreement not to bar remedies against persons who do not pay specified assessment.*

4. *Saves proceedings commenced before assessment.*
5. *Provides for authentication of assessment by filing the same, &c.*

Copy of Agreement.

An Act to confirm an Agreement between certain Shareholders and Creditors of the Union Bank of Calcutta.

Whereas by Act XXIII. 1845, certain persons, therein declared to have formed themselves into a Company or Co-partnership by the name of "The Union Bank of Calcutta," and those who should thereafter become Members and Proprietors of the said Union Bank, were enabled to sue, and to be sued, at law and in equity, in the name of the person who should be the Secretary or the Treasurer of the Bank, for the time being, and certain provisions are therein contained for the recovery of debts and demands due by the said Co-partnership:

And whereas a Memorial has been presented to the Governor General of India in Council, signed by Thomas Charles Morton, Esquire, Henry Burkinyoung, Esquire, Jeremiah James Homfray, Esquire, and Baboo Prosunnocoomar Tagore,—all therein described as Members of the Executive Committee of Management of the said Union Bank, and also by certain persons, therein described as Members of the Committee of Creditors of the Union Bank,—that is to say, Charles Hogg, Esquire, therein described as constituted Attorney for Glyn, Halifax, Mills and Company, by Henry Cowie, Esquire, and by Thomas Seddon Kelsall, Esquire, setting forth, that the said Joint Stock Banking Company, or Union Bank of Calcutta, suspended payment about the close of the year 1847, and that the remaining assets of the said Bank are insufficient to satisfy the outstanding debts and liabilities; that several Creditors of the Bank have obtained judgment against the public Officer under the said Act XXIII. 1845, and the assets of the Bank being insufficient, certain of the said judgments are put in suit against individual Shareholders; and that the Memorialists fear that, unless some mutually satisfactory arrangement can be immediately made between the Creditors and the Shareholders, an enormous sacrifice of property will speedily take place, and a great number of persons be involved in utter ruin: that many of the Creditors are willing to agree with the Shareholders, and to give as complete a discharge as the law will allow, to those Shareholders who will pay such reasonable sums of money as have been

assessed on them respectively, on account of the said debts and liabilities, by a Committee of Creditors, appointed at a public meeting of the Creditors, provided that such discharge do not work a release or otherwise affect their claims, in respect of the said debts and liabilities, against other persons liable to make good the same, who shall refuse or neglect to pay the sums so assessed on them respectively; and that many of the said Shareholders are willing to pay the sums so assessed on them, provided that they may be thereby secured from all proceedings at law or in equity, in respect of the said debts and liabilities, at the suit of any Creditor who shall have executed such agreement as aforesaid, and accepted any payment out of the sums so contributed: that doubts have been entertained of the legal effect of such an agreement and discharge: and praying, therefore, that the effect of it may be established and defined by authority of the Governor General of India in Council, without prejudice to the rights of any Creditor of the said Bank executing the same, against any present or past Shareholder of the said Bank, who shall not have paid up, in the manner prescribed by the said agreement, the full amount of the sum assessed on him or her as aforesaid, or to the rights of any Creditor who shall not execute the same, It is declared and enacted as follows:

I. The agreement, of which a copy is annexed to this Act, being the agreement referred to in the said Memorial, shall be of full force as between those Creditors of the said Union Bank who shall execute the same, and those persons named in the Schedule hereinafter mentioned, and in the said agreement described as the Schedule thereunto annexed, marked A, being the Schedule of Assessment of Contribution toward the liquidation of the debts of the said Bank, who shall, in the manner mentioned in the said agreement, pay the several sums at which they are severally assessed in the said Schedule of Assessment: but shall be of no force to affect the rights or liabilities of any persons, other than such as are party or privy thereunto, or the rights or liabilities of the persons named in the said Schedule, as against each other.

II. If any Creditor of the said Bank, who shall have executed the said agreement shall thereafter sue out any Writ of *Scire Facias*, or take any other proceeding at law or in equity, on account of any debt or liability of the said Union Bank, against

any person named in the said Schedule of Assessment who shall have paid, in the manner mentioned in the said agreement, the full sum at which he or she is assessed in the said Schedule of Assessment, the execution of the said agreement by such Creditor, and payment of the said Assessment by the person against whom such Writ or other proceeding shall be sued out, or taken, may be pleaded in bar thereof: and all costs incurred by any such defendant in resisting such Writ or proceeding shall be paid by the Creditor at whose suit the same shall have been sued forth or instituted.

III. If any Creditor of the said Bank, who shall not have executed the said agreement, shall sue out any Writ of *Scire Facias* or take any other proceeding at law or in equity, on account of any debt or liability of the said Union Bank, against any person liable to make good the same, or any part thereof; or if any Creditor of the said Bank, who shall have executed the said agreement shall sue out any Writ of *Scire Facias*, or take any other proceeding at law or in equity, on account of any debt or liability of the said Union Bank, against any person liable to make good the same or any part thereof, who shall not pay in the manner mentioned in the said agreement the full sum at which he or she is assessed in the said Schedule of Assessment, the said agreement shall not be pleadable to such Writ or proceeding, nor shall the contents thereof be received in evidence, in any court of law or equity, in any proceeding had for the recovery of such debt or liability from any such person.

IV. Provided always, that nothing hereinbefore contained, shall be construed to prevent any Writ of *Scire Facias*, which shall have been issued, or any action or suit which shall have been actually commenced against any Shareholder, before payment of his Assessment, from being prosecuted and continued afterwards, if the party instituting such proceeding, chooses so to do.

V. Within one month after the passing of this Act, a copy of the said Schedule of Assessment, signed by the said Thomas Charles Morton, Henry Burkinyoung, Jeremiah James Homfray, Prosunnocoomar Tagore, Charles Hogg, Henry Cowie, and Thomas Seddon Kelsall, shall be filed and enrolled among the Records of Office of the Record Keeper of the Supreme Court of Judica-

ture at Fort William in Bengal: and the Schedule so filed shall be deemed the Schedule referred to by this Act, and by the said agreement, and shall be conclusive evidence of the amounts severally assessed against the persons named therein, according to the true intent and meaning of this Act.

COPY OF AGREEMENT.

We, the undersigned, Creditors of the Union Bank of Calcutta, hereby undertake and promise, upon payment by the Executive Committee of the said Union Bank, of an immediate first dividend of twenty-five (25) per cent. upon our respective claims to accept the Schedule hereunto annexed, marked A, (which has been framed by a committee of Creditors of the Bank) as the Schedule of Assessment or Contribution towards the liquidation of the debts of the said Bank, of the several Shareholders, past and present, therein named; and we promise and agree not to sue out any Writ of *Scire Facias* against, or otherwise to molest the person or property of any Shareholder or Shareholders of the said Union Bank, named in the said Schedule, who shall pay up the full sum placed opposite his or her name in the said Schedule, as and for his or her Assessment or Contribution as aforesaid. Provided, however, that nothing herein contained, shall be construed to protect any of the said parties from being proceeded against, unless and until he shall have actually paid his said Assessment in full, nor to prevent any Writ of *Scire Facias* which shall have been issued, or any action or suit which shall have been actually commenced against any Shareholder, before payment of his Assessment from being prosecuted, and continued afterwards, if the party instituting such proceeding chooses so to do. Provided, further, that if any Shareholder in the said Schedule named, shall not have paid or given security to the Executive Committee of the said Bank, certified by them to be sufficient, for the payment of his Assessment, within three months from this date, if he be resident in India, or within five months, if resident out of India, the same shall be increased ten per cent; and that a further per-centage of the like amount shall be added after every succeeding period of three months, during which the same shall remain unpaid or unsecured. Provided also, that the said Executive Committee,

of the said Bank, do engage to pay, from time to time, such further dividends upon our respective claims, until full satisfaction thereof, respectively, as the sums realized from the said Contribution shall enable them to do; and whenever the realization shall amount to ten per cent. upon the remaining claims, to declare and pay a new dividend at that rate. Provided always, and it is hereby expressly declared and agreed, that we, the undersigned, reserve to ourselves, all our rights and remedies whatsoever, against the assets of the said Bank, legal and equitable, and against all Shareholders, present and past, not paying up the full amount of their said Assessments, respectively, as aforesaid: In witness whereof we have hereunto set our respective hands, this Twenty-fifth day of September, in the year of Christ, one thousand eight hundred and forty-eight.

LUNATICS.

Repealed by VII of 1862

ACT No. IV. OF 1849.

[*Passed on the* 10*th February*, 1849.

Recites expediency of declaring what unsoundness of mind is to constitute excuse for crimes, and of providing for safe custody of such persons.

1. *Person committing an offence not to be acquitted for unsoundness of mind, unless found to have been unconscious and incapable of knowing that he was doing an act forbidden by law, by reason of unsoundness of mind, not wilfully caused by himself.*

2. *On Acquittal for such excuse, ground of excuse to be found in special verdict.*

3. *Person so acquitted to be disposed of by Court for safe custody, &c.*

4. *Persons heretofore acquitted on ground of insanity, &c. to be kept in same strict custody as persons hereafter to be acquitted.*

5. *No person acquitted by such special verdict shall be discharged on becoming of sound mind, unless by order of Government.*

6. *Person under sentence of imprisonment, appearing to be of unsound mind, may be removed to Lunatic Asylum, and kept till he shall again become of sound mind, &c.*

7. *Interpretation of the word "Government."*

An Act for the Safe Custody of Criminal Lunatics.

Whereas it is expedient to declare what unsoundness of mind excuses the commission of criminal acts, and to provide for the safe custody of persons found to have committed such acts, but acquitted by reason of unsoundness of mind, it is enacted as follows:

I. No person, who does an act, which, if done by a person of sound mind, is an offence, shall be acquitted of such offence for unsoundness of mind, unless the Court or Jury, as the case may be, in which according to the constitution of the Court, the power of conviction or acquittal is vested, shall find that, by reason of unsoundness of mind, not wilfully caused by himself, he was unconscious, and incapable of knowing, at the time of doing the said act, that he was doing an act forbidden by the law of the land.

II. Whenever a person charged with any offence shall be acquitted, because he is within the exception made by the foregoing Section, the Court or Jury shall give a special judgment or verdict, that he did the act charged against him, being then of unsound mind, so as to excuse him according to law.

III. Whenever such special judgment or verdict as aforesaid shall have been given against any person, the Court before which the trial was had shall order him to be kept in safe custody, in such place and manner as to the Court shall seem fit, until the pleasure of the Government can be known thereon: and thereupon the Government may order such person to be kept in strict custody, for such time and in such manner as to the Government shall seem fit.

IV. In all cases in which, before the passing of this Act, any person has been acquitted of any offence, on the ground of insanity, lunacy, idiocy, or unsoundness of mind, such person may be kept in the same strict custody in which persons may be kept, who shall be hereafter acquitted, for unsoundness of mind.

V. No person, against whom any such special judgment or verdict shall have been given, shall be entitled to be discharged out of custody, on being restored to soundness of mind, unless by order and at the discretion of the Government.

VI. Whenever it shall appear to the Government that any person, imprisoned by the sentence of any Court, is of unsound mind, the Government, by a warrant which shall set-forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, or other fit place of safe custody, there to be kept and treated as the Government shall order; and when it shall appear to the Government that such prisoner has become of sound mind, the Government, by a warrant directed to the person having charge

of him, shall remand such prisoner to the prison from which he was removed, if then still liable to be kept in custody, or, if not, shall order him to be discharged out of custody.

VII. The word 'Government' in this Act shall be taken to mean the Governor, or Governor in Council, or other person or persons administering the Government of the Presidency or place where the trial is had.

STRAITS SETTLEMENTS.—CUSTOMS AND EXCISE.

ACT No. V. OF 1849.

[*Passed on the 3d March*, 1849.

Recites doubts as to quantity of Arrack on which duty may be taken.

1. *Enacts that duty may be taken pro rata upon any quantity.*

An Act for better defining the Duties of Customs and Excise.

Whereas under the Regulations in force for taking a duty of twenty Spanish Dollars for each and every Leaguer of Arrack or Asiatic Rum imported into and intended for consumption within Prince of Wales' Island, Singapore, and Malacca, doubts have arisen whether any duty may be taken on importation of a quantity less than a Leaguer, and it is expedient that such doubts be removed, and that the meaning of all such or the like expressions in any regulation or Act for the levy of Customs or Excise Duties within the territories under the Government of the East India Company, be plainly declared, It is declared and enacted as follows:

I. Whenever by any Regulation or Act now or hereafter to be in force, not containing any direction to the contrary, a certain duty of Customs or Excise, or in the nature thereof, is leviable on any given quantity, by weight, measure, or value, of any goods or merchandise, a like duty is leviable according to the same rate on any greater or less quantity.

PENSIONS AND SUPERANNUATION ALLOWANCES.

ACT No. VI. OF 1849.

[*Passed on the 17th March*, 1849.

Recites expediency of extending and consolidating the law.

1. *Repeals R.* 12. 1814 *of Bengal Code, and Act* 31 *of* 1845.

2. *Reduced pay or pension, however called, of Invalid Officer, &c. in service of E. I. Co., and monthly or yearly pension or allowance to any person, in consideration of past services, &c. granted by Government, Chelsea and Greenwich Hospital pension, &c. to be exempt from seizure for debt, &c.*

3. *And all assignments, &c. in anticipation of such pensions, to be null and void.*

4. *Act not to apply to process issued and assignments made before passing of Act in Madras, nor before 27th December* 1845, *in respect of pensions granted in Bombay, nor before 27th May* 1814, *in respect of pensions granted in Bengal.*

For securing Military and Naval Pensions and Superannuation Allowances.

Whereas it is expedient to consolidate and extend the operation of the law, as to the exemption of Military and Naval Pensions, and other Superannuation Allowances, from seizure under process of law, It is enacted as follows:

I. Regulation XII. 1814 of the Bengal Code, and Act XXXI. 1845, are repealed.

II. The reduced pay or pension, however called, of any Invalid Officer, Soldier, Sailor or Retainer of the Army or Navy, in the Military or Naval Service of the East India Company, and also any monthly or yearly pension, or pecuniary advance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor General in Council, or of the Governor or Governor in Council, or Lieutenant Governor, of any Presidency or Place within the territories under the Government of the East India Company; and also the pension of any Out-Pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively, and also all money due, or to become due on account of any such pension or allowance, shall be exempt from seizure, attachment, or sequestration by process of any Court within the said territories, at the instance of a creditor, for any demand against the Pensioner, or in satisfaction of a decree or order of any such Court.

III. All assignments, agreements, orders, sales and securities of every kind made by any such Pensioner, in respect of any money not payable at or before the making thereof, on account of any such pension, or for giving or assigning any future interest therein, are null and void.

IV. This Act shall not apply to any process of any Court

established by Royal Charter, issued out of such Court before the passing of this Act, or to any assignment, agreement, order, sale, or security by any such Pensioner, made before the passing of this Act, in respect of a Chelsea or Greenwich pension, or a pension or allowance granted in the Presidency of Madras, or before the 27th December 1845, in respect of a pension or allowance granted in the Presidency of Bombay, or before the 27th May 1814, in respect of a pension or allowance granted in the Presidency of Bengal.

ADMINISTRATOR GENERAL.

ACT No. VII. OF 1849.

[*Passed on the 7th April,* 1849.

Recites expediency of disconnecting the administration of Intestate Estates from office of Ecclesiastical Registrar.

1. *Enacts, in case of death and intestacy and, after citation, no next of kin appearing and making out claim to administration; also in case of executor refusing to prove will, the Administrator General shall apply for letters of administration, &c.*

2. *All letters of administration, &c. granted to Ecclesiastical Registrar and probates, &c. granted to him, and Estates, &c. vested in him and books, &c. in his possession, &c. transferred by this Act without other grant, to Administrator General, who shall have same powers, &c.*

3. *Ecclesiastical Registrar at time of passing Act to be first Administrator General.*

4. *Future Administrator General to be appointed by G. G. of India in Council.*

5. *Administrator General not to be deemed an officer of Supreme Court.*

6. *Administrator General to give security bond to E. I. Co. himself for* 1 *lakh of Rupees and securities for* 1 *lakh.*

7. *Administrator General to receive Commission of* 3 *per cent. on monies actually distributed, or set apart and invested for parties entitled; and out of commission to pay expences of establishment.*

8. *Commission or agency to be charged by no person as executor, &c. other than the Administrator General. Specific bequest in favour of executors not prohibited.*

9. *Assets to be kept by Administrator General in Treasury of E. I. Co., or as G. G. of I. in C. shall order, &c.*

10. *Administrator General to enter into books, accounts of each separate estate, &c. such books, &c. to be open to inspection, &c. on payment of fee, &c.*

11. *Administrator General twice a year, on specified days, to exhibit and deliver in open Court, a Schedule, showing gross amount received or paid by him on account of each estate and balances, &c. and list of all Bonds, &c. and a list of administrators, &c. closed, &c. Schedules to be filed, &c. and published, &c.*

12. *G. G. in C. to appoint Auditors of accounts of A. G.*

13. *Auditors to examine Schedules and report to G. G. in C.*

14. *Auditors to have power to summon and examine A. G., and to call for books, &c. and A. G. to be punishable in like manner as for contempt of Court for refusing, &c.*

15. *Costs of preparing Schedules to be paid actually out of estates, after being ascertained by auditors, and allowed by G. G. in C.*

16. *Auditors to report specially to G. G. in C. if accounts appear not correct.*

17. *G. G. in C. to refer such report to Advocate General, who may proceed summarily, &c. for an account, &c. against A. G., &c. who shall be bound to answer, &c.*

18. *Costs of reference and examination and of Advocate General how to be defrayed.*

19. *Court on such summary proceeding may make same orders as upon bill filed.*

20, 21, 22. *A. G. if satisfied that effects of any British subject do not exceed* 500 *Rupees, may after three months and no letters taken out, grant certificate entitling claimants to receive small sums, but* (21) *A. G. not bound to grant such certificate unless satisfied by oath, &c. of claimant, and* (22) *such certificate to be a discharge for the person paying under it, &c.*

23. *A. G. not bound to take out Administration to estate in which he has granted certificate.*

24. *Fee of* 3 *Rupees per cent. payable for every certificate.*

25. *False swearing, &c. under this Act to be deemed perjury and punishable with fine and imprisonment, &c.*

An Act for the appointment of an Administrator General in Bengal.

Whereas it is expedient to disconnect the administration of the Estates of British Subjects dying intestate in the Presidency of Fort William in Bengal, from the Office of Ecclesiastical Registrar of the Supreme Court, and to appoint an Administrator General there, It is enacted as follows:

I. Whenever, after the passing of this Act, any British Subject shall die intestate, within the Presidency of Fort William in Bengal, or the Territories which are or shall be subordinate to the said Presidency, and on the return of the citation issued from the proper Ecclesiastical Court, no next of Kin shall appear, and make out their claim to the Administration of the Effects of the deceased, to the satisfaction of the said Court, and also, whenever the Executor or Executors, appointed by the Will of any British Subject dying therein, shall refuse to prove the Will, the Administrator General, created by this Act, shall, except in the case hereinafter excepted, apply for, and the said Court shall grant to him, instead

of the Ecclesiastical Registrar, such Letters of Administration or *ad colligenda bona* as to such Court shall seem meet; by virtue whereof the said Administrator General shall collect the assets of the deceased, and account for them as herein provided.

II. All Letters of Administration or *Ad Colligenda Bona*, granted to the Ecclesiastical Registrar of the Supreme Court,—and all Probates, granted to such Officer, of Wills, appointing the Ecclesiastical Registrar of the Supreme Court, by that description, or him and his successors, Executors thereof,—and all Estates, Effects, and Interests, vested in the said Ecclesiastical Registrar by virtue thereof; and all books, papers, and documents belonging to him or in his possession, or under his control by virtue of such Letters or Probates, shall, by this Act, and without other grant, be transferred to the Administrator General by this Act created; who shall be, to all intents and purposes, such Administrator, Executor, or Grantee, in his new character of Administrator General, as the Ecclesiastical Registrar of the Supreme Court was; and shall have all the same powers as the said Ecclesiastical Registrar might exercise at the time of the passing of this Act, as such Administrator, Executor, or Grantee.

III. The Ecclesiastical Registrar at the time of the passing of this Act shall be the first Administrator General, and upon the passing of this Act shall cease to be Ecclesiastical Registrar; and, as such Administrator General, shall be entitled to receive or retain all Commissions to which he was entitled as Ecclesiastical Registrar at the time of the passing of this Act, on any such grants as aforesaid.

IV. On all future vacancies of the Office, the Administrator General shall be appointed by the Governor General of India in Council.

V. After the passing of this Act, the Administrator General shall not be deemed, in that capacity, an Officer of the said Supreme Court, and shall not be otherwise accountable to it than any ordinary Executor, Administrator, or Grantee of letters *Ad Colligenda Bona*, as the case may be.

VI. Every Administrator General shall give security by bond to the East India Company, himself for One Lakh of Rupees, with two or more Sureties, jointly and severally, for another Lakh of Rupees, for the due execution of his said Office; and shall not be

required by the said Supreme Court to enter into any Administration Bond, or to give other security to that Court on the grant of any such Letters as aforesaid.

VII. The Administrator General shall receive, for the discharge of his duties as such Administrator General, under all such grants of Letters as aforesaid made after the passing of this Act, or on Probates of Wills, so granted, after the passing of this Act, wherein he is named Executor, by virtue of his Office,—instead of the commission heretofore received by the Ecclesiastical Registrar, a commission calculated after the rate of Three Rupees in every Hundred Rupees, which he shall actually distribute, or which he shall set apart and invest as herein provided, for the benefit of the parties ultimately entitled thereto, if the same are not immediately payable; and out of the said Commission of Three Rupees in the Hundred, shall defray the expenses of the necessary establishment, and all other charges, to which the said Office may be subject.

VIII. No person, other than the Administrator General shall be entitled to charge any commission or agency, as Executor of any Will, of which Probate shall have been granted in the said Presidency after the passing of this Act, or as Administrator of any Effects whereof Administration shall have been granted in the said Presidency after the passing of this Act: but this enactment is not to be deemed to hinder any Executor from having the benefit of any legacy bequeathed to him, either of a specific sum or residuary bequest, or by way of commission, or in any other manner.

IX. The Assets belonging to the Estates administered by the said Administrator General shall be kept by him in the Treasury of the East India Company, or otherwise kept and invested by him, in such manner as the Governor General of India in Council shall from time to time order; which order shall be published in the *Calcutta Gazette*, and shall be full authority, protection, and indemnity in all Courts whatsoever for such keeping and investing.

X. The said Administrator General shall enter in books, to be kept by him for that purpose, separate and distinct accounts of each Estate, and of all such sums of money, Bonds and other Securities for Money, Goods, Effects, and things, as shall come to

his hands, or to the hands of any person employed by him, or in trust for him under this Act; and likewise of all payments made by him on account of the said Estates, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively; which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Court and others, as may have occasion to inspect the same, at office hours; paying only such reasonable fee as may be, from time to time, fixed therefore, by the Governor General of India in Council, and published in the *Calcutta Gazette.*

XI. The Administrator General, shall, twice in every year, that is, on the First day of March and on the Tenth day of August, or on the First day on which the said Court shall be sitting after those days, exhibit and deliver, in open Court, a true Schedule, showing the gross amount of all sums of Money received or paid by him, on account of each Estate in his charge, and the balances, during the period of six months ending severally on the Thirty-first day of December and Thirtieth day of June next before the day of delivering such Schedule; and a true list of all Bonds or other Securities received on account of each of the said Estates during the same period; and also a true Schedule of all Administrations whereof the final balances shall have been paid over to the persons entitled to the same, during the same period,—specifying the amount of such balances, and the persons to whom paid; which Schedules shall be filed of record in the said Court, and shall, within fourteen days afterwards, be published in the *Calcutta Gazette* by the said Administrator General: and copies thereof in triplicate shall be delivered to the Secretary of the said Presidency, and sent by the Governor of the said Presidency to the Court of Directors of the East India Company for publication in the *London Gazette.*

XII. The Governor General of India in Council, shall from time to time, appoint an Auditor or Auditors to examine the Accounts of the Administrator General at the time of the delivery of the said Schedules, and also at any other time when the Governor General of India in Council shall think fit.

XIII. The Auditor or Auditors shall examine the Schedules and accounts, and report to the said Governor General of India in

Council whether they contain a full and true account of every thing which ought to be inserted therein, and whether the Books, by this Act directed to be kept by the Administrator General, are duly and regularly kept, and whether the Assets are duly kept and invested in such manner as is by law prescribed.

XIV. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General or other party or parties if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all Books, Papers, and Documents which may appear to him to be necessary for the purposes of the said reference: and if the Administrator General or other person or persons when summoned, shall refuse, or without reasonable cause neglect to attend, or to produce any Books, Papers, or Documents required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at Fort William in Bengal; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

XV. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination, shall be defrayed proportionably by all the Estates, the accounts of which are then under examination, which costs and proportions shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Governor General of India in Council, and shall be paid out of the said Estates, accordingly, by the Administrator General.

XVI. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein, or which ought to be therein contained, he or they shall report accordingly to the Governor General of India in Council, specifying the substance of the objections thereto.

XVII. The Governor General of India in Council shall refer every such report, as last aforesaid, to the consideration of the

Advocate General of the East India Company in Bengal, who shall thereupon, if he shall think fit, proceed summarily, by petition, for an account against the said Administrator General, or against the late Administrator General, after his removal from Office, or against his personal representatives in case of his death, in respect of all or any of the Estates then or formerly under his care, as the said Advocate General shall think fit; and shall have power to exhibit interrogatories to the said Administrator General, or other person or persons defendants, who shall be bound to answer the same as fully as if the same had been contained in a Bill filed for the like purpose; and the Court shall have power, on any such petition filed, to examine orally the parties before it, and all witnesses, or to refer the accounts to be taken in the ordinary way.

XVIII. The costs of the reference and examination and those of the Advocate General, when such are directed to be paid, shall be defrayed either by the defendant or defendants, in case he or they shall be decreed to pay the costs, or out of the Estates rateably as the said Court shall direct; and whenever the costs of any reference and examination shall be recovered from the defendant or defendants, the same shall be repaid to the Estates by which the same were in the first instance contributed, and the Court shall have power to order the Administrator General, or other person or persons defendants, to receive his or her costs out of the said Estates if it shall think fit.

XIX. The said Court shall have power on such petition to make such original and subsequent orders as upon a Bill filed; and such Orders shall have the same effect, and be executed in the same manner as Decretal Orders.

XX. Whenever any British subject shall die within the said Presidency intestate, and Letters of Administration to his or her Effects shall not be taken out for three months after the death, and the Administrator General shall be satisfied that such Effects do not exceed in the whole Five Hundred Rupees, he may, if he shall think fit, grant,—to any person claiming to be entitled to a principal share of the Effects of the deceased,—Certificates under his hand entitling the claimant to receive the sums or securities for money therein severally mentioned belonging to the Effects of

the deceased, to the value of any sum not exceeding in the whole Five Hundred Rupees.

XXI. The Administrator General shall not be bound to grant any such Certificates, unless he is satisfied of the title of claimant and of the value of the Effects of the deceased, either by the oath or affidavit of the claimant, or by such other evidence as he shall require.

XXII. Any such Certificate, with a receipt annexed, under the hand of the person to whom the Certificate is granted, shall be a full receipt and discharge for payment or delivery to him or her of the money or security for money therein mentioned, with respect to the claim of any other person, upon the person paying or delivering the same: but any next of kin or representative, or creditor of the deceased, shall have remedy for recovery thereof against the person receiving the same.

XXIII. The Administrator General shall not be bound to take out Letters of Administration to the Effects of any deceased person on account of whose Estate he shall grant any such Certificate, but may do so, if he shall discover any fraud or misrepresentation made to him, or that the value of the Estate exceeded Five Hundred Rupees.

XXIV. For every such Certificate the Administrator General shall be entitled to charge a fee calculated after the rate of Three Rupees in the Hundred on the amount mentioned in the Certificate.

XXV. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and if convicted thereof, shall be liable to fine and imprisonment, or to fine or imprisonment, which imprisonment may be at the discretion of the Court, with or without hard labor, and may extend to two years.

MADRAS.—POLICE MAGISTRATES.

ACT No. VIII. OF 1849.

[*Passed on the 12th May*, 1849.

Recites expediency of applying Acts 21 *of* 1839 *and* 3 *of* 1842 *to Madras.*

1, 2. *Enacts, Police Magistrates of Madras to have same powers as Justices*

of Calcutta under recited Acts for trial, &c. of simple larcenies, &c. and (2) *those Acts to be read as if Police Magistrate for Madras, &c. were expressly mentioned instead of Calcutta, &c.*

An Act for assimilating the Penal Jurisdiction of Police Magistrates at Madras to that of Justices of the Peace at Calcutta.

Whereas it is expedient to apply the provisions of the Acts No. XXI. 1839 and No. III. 1842, to the town of Madras, It is enacted as follows:

1. All powers given by Act No. XXI. 1839, or Act No. III. 1842, to any Justice of the Peace for the Town of Calcutta, for the trial and punishment of certain simple Larcenies and other Felonies within the Town of Calcutta, and of assaults on board of Merchant Ships in the River Hooghly, may be exercised by any Justice of the Peace, appointed to be a Police Magistrate for the Town of Madras, for the trial and punishment of the like Larcenies and Felonies within the Town of Madras, and the like assaults on board of any Merchant Ship in the Madras Roads.

II. In execution of the powers of the said Acts by any Police Magistrate for the Town of Madras, the said Acts shall be read as if the Town of Madras, and Supreme Court of Judicature at Madras, were severally mentioned therein, instead of the Town of Calcutta, and Supreme Court of Justice at Calcutta; and as if the Madras Roads were mentioned therein instead of the River Hooghly or the mouths thereof.

MADRAS.—POLICE MAGISTRATES.

ACT No. IX. OF 1849.

Passed on the 12*th May*, 1849.

Recites expediency of applying Acts 4 *of* 1835; 1 *of* 1837; *and* 32 *of* 1838; *to Presidency of Madras.*

1. *Powers now exercised by* 2 *Justices, &c. may be exercised by one, &c.*
2. *One Justice in Madras Presidency may issue warrant under* 33 *G.* 3, *c.* 52.

An Act for enabling one Police Magistrate to exercise in certain cases the powers of two Justices in the Presidency of Fort St. George.

Whereas it is expedient to apply the provisions of the Acts No. IV. 1835, No. I. 1837, and No. XXXII. 1838, to the Presidency of Madras, It is enacted as follows:

I. All powers whatever in Criminal cases, which by virtue of any law now in force may be exercised by two Justices of the Peace, or by two Police Magistrates within the Presidency of Fort St. George and places subordinate thereto, may be exercised by one Justice of the Peace appointed to be a Police Magistrate within the said Presidency.

II. Any one Justice of the Peace, appointed to be a Police Magistrate within the said Presidency, may issue a warrant of distress for the recovery of Arrears of Assessment accruing under the Act of Parliament 33 Geo. III. Cap. 52; and every such warrant shall have the same force as if it were under the hands and seals of two Justices.

MADRAS.--BOARD OF REVENUE.

ACT No. X. OF 1849.

Passed on the 26th May, 1849.

Recites expediency of empowering G. to depute one Member of Board of Revenue to perform duties of Board in any districts, &c.

1. *Enacts, G. in C. of Fort St. G. may depute Member of Revenue Board to perform in any district, duties of Board collectively.*

2, 3. *Empowers Commissioner so deputed to exercise all powers mentioned in Commission,* (3) *Commission to be published in Gazette.*

4. *Correspondence, &c. under Commission to be deposited with and deemed records of Board of Revenue.*

An Act for appointing a Commissioner of Revenue at Madras.

Whereas it is expedient that the Governor of Fort St. George in Council should be empowered to depute a Member of the Board of Revenue, to perform in any of the Districts of that Presidency all or any of the duties which, by the General Regulations and Laws of the Presidency, belong to the Board of Revenue collectively, It is enacted as follows:

I. The Governor of Fort St. George in Council may, from time to time, whenever he shall see fit, depute a member of the Board of Revenue to perform alone, in any of the Districts of that Presidency, all or any of the duties which, by the General Regulations and Laws of the Presidency, belong to the Board of Revenue collectively.

II. When a special Commission shall be given to a Member

of the Board of Revenue under this Act, the Member of the Board named therein shall, by virtue thereof, be empowered to exercise, within the limits of his Commission, all the powers and duties which by Law are vested in the Board of Revenue collectively, without exception, or subject to any exceptions or restrictions, which shall be prescribed in such Commmission; and all Regulations and Acts concerning the Board of Revenue shall be deemed to apply to the said Commissioner within the limits of his Commission, and with regard to all things concerning the Revenue of the Districts included in it, so far as is necessary to give full effect to his Commission and to this Act.

III. Every such Commission shall be published in the Fort St. George Gazette, and the Commissioner shall enter on his Office from the date of such publication; and in like manner the revocation or other determination of any such Commission shall be published in the Fort St. George Gazette.

IV. The correspondence and other documents belonging to any such Commission shall be deposited on the determination thereof, in the Office of the Board of Revenue, and shall be deemed records of the said Board.

CALCUTTA.—ABKAREE, EXCISE.

ACT No. XI. OF 1849.

[*Passed on the* 11*th August*, 1849.

1. *Repeals Act* 1, 1842; *Act* 26, 1845; *S.* 26, *R.* 2, 1802 *of Bengal Code; and part of* 33 *G.* 3, *c.* 52, *S.* 159.

2. *Excise from retail sale of spirits, &c. in Calcutta to be under charge of Collector, and Collector under control of Commissioner, &c.*

3. *Collector empowered to appoint Constables, &c. who shall also be styled "Abkaree officers."*

4. *Person selling spirits, &c. by retail without license, liable to a fine; but not wholesale dealers selling for samples.*

5, 6. *Sale of Beer, &c. in not exceeding* 2 *gallons, or Arrack, &c. in not exceeding one seer, or of Tauree in not exceeding* 4 *seers, or Ganjah or Bhang in not exceeding a quarter of a seer, or of Churrus, Opium, Chundoo or Muddut, or any preparation of same, &c. in not exceeding* 5 *tolahs, shall be deemed a retail sale; and* (6) *sale of certain of said articles in larger quantities prohibited, and subject to penalty, except spirits, &c. imported under passes, &c.*

7. *Board of Customs empowered to regulate form of license.*

8. *Person taking out license to execute counterpart*

9 *Tax for license to be fixed by Board of Customs, and made payable in advance.*

10. *Collector empowered to withhold or recal license, if tax not paid, or in case of breach of conditions, or for other cause with Commissioner's sanction, &c*

11. *License may be surrendered on 15 days notice.*

12. *Justices not to grant license for Hotel, &c to person who has not taken out license and Justice's license to be void, if excise license recalled, &c.*

13 *Collector may levy tax after demand, &c by distress and sale, &c.*

14. *Breach of conditions of license punishable by fine, and dealer punishable for default, &c of servant.*

15, 16. *Person, not being licensed dealer, having in possession, &c. any greater quantity of Spirits, &c except English Beer, &c not protected by a pass, &c. liable to a fine not exceeding 500 rupees, except in case of Opium, and in case of Opium at the rate of 16 rupees per seer, and (16) all such spirits, &c. and the vessels, &c. containing them to be confiscated.*

17 *Any Abkaree officer above rank of peon may enter and inspect, by day and night, and any officer by day, house of licensed dealer.*

18. *License to be kept at house, &c. licensed, and shown on demand to Officer*

19 *Abkaree officer may stop and detain person carrying spirits, &c without a pass, &c.*

20. *Collector having good reason to believe, from information, &c. that spirits, &c liable to confiscation are kept, &c may empower Abkaree Officer, &c. to enter &c and seize, &c such liquor, &c and in case of resistance to break open doors, &c. and arrest, &c owners, &c. but in entering Zenana to follow same rules as prescribed by Supreme Court.*

21 *Constables, &c to assist Abkaree officers.*

22, 25 *Abkaree officer making arrest or seizure, or entering house, to make a report, &c to Collector, &c within 24 hours, and Collector may release or send to Justice of the Peace, and (25) officer delaying beyond the time to be liable to fine.*

23 *Person giving false information against another under Abkaree Act to be liable to fine, &c or imprisonment*

24. *Person obstructing Abkaree officer, &c. liable to fine, &c. and if affray, &c, happen, liable further to prosecution for the same.*

25. *See supra.*

26, 27, 28. *Officer vexatiously and unnecessarily making seizure or arrest, or (27) unlawfully releasing, &c. any person or conniving at illicit sale, &c. or (28) taking or asking gratuity not authorized for corrupt specified consideration, to be liable to a fine, &c.*

29. *Cause of seizure to be tried upon information by Justice in summary way, and if confiscation adjudged, warrant for sale to issue to Collector*

30. *In case of seizure and no claimant appearing within one month, Justice to examine, &c and give judgment of confiscation, &c.*

31. *Fines under this Act except under S. 38, to be adjudged by J. P. Justice to summon party and how to proceed, no proceedings to be taken more than 3 months after offence committed*

32. *Conviction for a second offence to be punished, in addition to ordinary punishment, with imprisonment, &c. and for third and subsequent offence rateably increased imprisonment.*

33. *Half of all fines upon conviction of illicit possession, &c. of spirits, &c. and of proceeds of sale of confiscated articles, &c. except Opium, &c. to be given to Informer; and Board may grant reasonable reward when no fine is realized, and direct what Abkaree officers shall receive rewards and what not.*

34. *Fines to belong to Government: but Board may grant rewards out of them.*

35, 36. *No writ of Certiorari to lie against proceedings under this act; but* (36) *Commissioner may call for proceedings and give relief.*

37. *Actions, &c. for any thing done under act to be brought within* 3 *months after fact, with one month's notice before action: and amends tendered to bar action, and may be paid into Court.*

38. *Collector empowered to punish contempt, &c. by fine, and imprisonment if not paid, subject to appeal to Commissioner, &c.*

For securing the Abkaree Revenue of Calcutta.

For better securing the Abkaree Revenue of Calcutta it is enacted as follows:

I. Act I. 1842, Act XXVI. 1845, Section 26, Regulation II. 1802, of the Bengal Code, and so much of Clause CLIX. of an Act of Parliament, numbered Chapter LII. of the Statutes passed in the Thirty-third Year of the reign of King George the Third, as relates to the sale of Arrack or other Spirituous Liquors, within the Town of Calcutta, and to the punishment of unlicensed Traders in Spirit or Spirituous Liquors, within the said Town, are repealed.

II. The collection of the Revenue arising from the retail sale of Spirituous or Fermented Liquours and intoxicating drugs, within the Town of Calcutta, shall be under the charge of the Collector of Calcutta, who shall perform the duties connected therewith under the control of the Commissioner of Abkaree and the Board of Customs, Salt, and Opium; and all proceedings of the Collector held under this Act shall be subject, with or without appeal, to their revision.

III. The Collector may appoint Constables, Darogahs, Jemadars, Burkundauzes, and other Officers, for collection of the said Revenue and prevention of Smuggling; and the Officers so appointed, beside their ordinary respective designations, shall be styled "Abkaree Officers."

IV. Every person who shall sell, by retail, any Spirituous or Fermented Liquors or intoxicating drugs, hereinafter specified, within the Town of Calcutta, without a license for that purpose, under the hand and seal of the Collector of Calcutta, shall be liable to a fine, not exceeding five hundred Rupees, for each sale: but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wines, or Spirits, as may appear to the Collector to be intended only as samples.

V. A sale of English or Foreign Beer, Wines, or Spirits, in any quantity, not exceeding two gallons, or of Bengal Arrack or Rum or other country spirit, in any quantity not exceeding one seer, or of Tauree in any quantity not exceeding four seers, or of Ganjah or Bhang, or any preparation or admixture of the same, in any quantity not exceeding one quarter of a seer, or of Churrus, Opium, Chundoo, or Muddut, or any preparation or admixture of the same, in any quantity not exceeding the weight of five tolahs, shall be deemed a retail sale within the meaning of this Act.

VI. The sale of Bengal Arrack or Rum or other country Spirit, or of Tauree, or of Ganjah, or Bhang, or any preparation or admixture of the same, or of Churrus, Opium, Chundoo, or Muddut, or any preparation or admixture of the same, in quantities larger than those specified for each Article in Section V. of this Act, is prohibited; and every person, who shall act in breach of this prohibition, shall be liable to the fine prescribed in Section XV., for the illicit possession of these Articles: but this prohibition does not apply to the sale of Spirituous or Fermented Liquors and intoxicating drugs, imported into Calcutta under passes from the Collector, or other Officer duly empowered in that behalf, and supplied by wholesale to licensed retail Dealers, or to the sale of Bengal Rum under bond for exportation by Sea, or to the sale of Opium intended for exportation by Sea, and covered by a Certificate to that effect, issued under the authority of the Board of Customs, Salt, and Opium.

VII. The Board of Customs, Salt, and Opium shall have authority, at all times, to regulate the form of licenses to be granted under this Act, and to alter and add to the conditions thereof.

VIII: Every person taking out a license for the retail sale of

Spirituous or Fermented Liquors, or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such license.

IX. Whenever a license shall be granted under this Act, the Collector shall be authorised to demand, in consideration of the privilege granted, such fee, tax, or duty as may, from time to time, be fixed, with the sanction of the Board of Customs, Salt, and Opium; and such fee, tax, or duty, may be made payable in advance, or at such period as may be settled by the Collector.

X. The Collector may withhold or recal a license, if any such fee, tax, or duty be not duly paid according to the conditions upon which the license is granted, or in case of a breach of any of the other conditions thereof; or with the sanction of the Commissioner of Abkaree, for any other cause, giving one month's notice of such withdrawal; and any person selling, by retail, any Spirituous or Fermented Liquors, or intoxicating drugs above specified, within the Town of Calcutta, whilst such license is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of Spirituous or Fermented Liquors or intoxicating drugs.

XI. Any licensed retail Dealer may surrender his license, on giving fifteen day's previous notice to the Collector, and paying a sum equal to the tax for that time, over and above the sum payable under the license.

XII. It shall not be lawful for the Justices of the Peace for the Town of Calcutta to grant a license to open or establish or keep open any Hotel, Punch House, Boarding House, or any other House of public entertainment, within the Town of Calcutta, in which any Spirituous or Fermented Liquors or intoxicating drugs above specified, may be sold, to any person who has not taken out a license for the retail sale of such liquors and drugs; and any such license, granted by any Justice of the Peace, shall become void, whenever the license for the retail of such liquors and drugs, granted to such person, is withheld or recalled by the Collector under this Act.

XIII. The Collector, after demand made in writing, may levy any arrear of tax or duty, due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due; provided that no such

arrear shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

XIV. A breach of any of the conditions of a license granted under this Act shall, beside entailing forfeiture of the license, be punishable by a fine not exceeding fifty Rupees; and such fine shall be recoverable from the licensed Dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop.

XV. Any person, not being a licensed Dealer, having in his possession, and any person carrying within the Town of Calcutta any greater quantity of spirituous or fermented liquors or intoxicating drugs above specified, or any preparation or admixture of the same, except English and Foreign Beer, Wines and Spirits, than the quantity specified for each Article in Section V. of this Act, and not being protected by a pass or permit from the Collector, or other Officer duly empowered in that behalf, shall be liable to a fine not exceeding five hundred Rupees, except in the case of Opium; and in the case of Opium, to a fine not exceeding the rate of sixteen Rupees for each seer found in the possession of, or carried by such person; and if such last mentioned fine shall not amount to five hundred Rupees, such person shall be liable to a further fine, not exceeding such sum as shall make the total fine imposed amount to five hundred Rupees.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors or intoxicating drugs, all such liquors and drugs found in the possession of any offender against this Act, shall be seized and confiscated; and the vessels, packages, and covering, in which such liquors and drugs are found, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.

XVII. Any Abkaree Officer above the rank of a peon or chuprassy may enter and inspect at any time, by day or by night, and any Abkaree Officer may enter and inspect by day, the house or shop in which any licensed Dealer shall carry on the sale of spirituous or fermented liquors, or intoxicating drugs.

XVIII. Every person holding a license for the sale of spiritu-

ous or fermented liquors or intoxicating drugs shall keep such license at the house or shop specified in the license, and shall show the license on the demand of any Abkaree Officer who shall desire to see the same; and any licensed Dealer, who shall refuse or be unable to produce his license, on the demand of any Abkaree Officer, shall be liable to a fine not exceeding two hundred Rupees.

XIX. Any Abkaree Officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs, without a pass, or otherwise liable to confiscation under this Act, and may seize the liquors or drugs, with the vessels, packages, and coverings in which the liquors or drugs are found, and the animals and conveyances used in carrying them.

XX. If the Collector has good reason to believe, either from information given by any Abkaree Officer or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that any spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any place, the Collector, by warrant under his hand, may empower any Abkaree Officer, above the rank of jemadar of Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the peace, to enter into every such place, where any such liquors or drugs are suspected to be kept or concealed, and to seize and carry away such liquors or drugs, and, in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal as aforesaid; and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquors or drugs, whom he shall find on the premises: provided that, where there is ground to suspect that such liquors or drugs are unlawfully concealed in any zenana, the Officer charged with the execution of the warrant shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort William.

XXI. All Constables, and other Ministerial Officers of the Peace are required to help the Abkaree Officers in the due execution of this Act, upon notice given, or request made by any such Abkaree Officer: and any Officer who, without lawful excuse,

shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section XXVII. of this Act for Abkaree Officers conniving at the escape of a person arrested under this Act.

XXII. Whenever any Abkaree Officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors or intoxicating drugs, or shall enter any house or shop for the purpose of searching for such illicit Articles, he shall carry the person arrested, with the illicit Articles seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all particulars of such arrest, seizure, or search; and the Collector, after such further enquiry as he deems necessary, shall forthwith either release the person arrested, or send him in custody to a Justice of the Peace for the Town of Calcutta.

XXIII. Every person, who shall maliciously give false information against any person, for being engaged in the unlicensed sale of spirituous or fermented liquors, or intoxicating drugs, or for having in his possession, or carrying, or in respect of there being in any house or shop any spirituous or fermented liquors, or intoxicating drugs, in contravention of this Act, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment in the Common Jail, for a period not exceeding six months, or to both.

XXIV. Every person, who shall obstruct or molest any Abkaree Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine, not exceeding five hundred Rupees; and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

XXV. Any Abkaree Officer, who shall delay carrying to the Collector any person arrested or any illicit articles seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter, shall be liable to a fine, not exceeding two hundred Rupees.

XXVI. Any Abkaree Officer, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the

pretence of seizing or searching for illicit spirituous or fermented liquors, or intoxicating drugs, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty, shall be liable to a fine, not exceeding five hundred Rupees.

XXVII. Any Officer employed in the Abkaree Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors, or intoxicating drugs, without license, or by any licensed dealer, contrary to the terms of such license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do any thing, whereby any of the provisions of this Act may be evaded or broken, or the Abkaree Revenue defrauded, shall be liable to a fine, not exceeding five hundred Rupees.

XXVIII. Any Abkaree Officer, who shall ask or take any gratuity, not authorized by any Law or Order of Government, or of the Board of Customs, Salt, and Opium, in consideration of doing, or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine, not exceeding five hundred Rupees.

XXIX. Whenever any goods or chattels shall be seized by an Abkaree Officer, as liable to confiscation under this Act, such seizure shall, upon information, exhibited by order of the Collector, be heard and determined in a summary way, by any Justice of the Peace for the Town of Calcutta; and such Justice shall cause the persons to whom such goods and chattels belong to be summoned to appear before him, and upon their appearance or default shall examine into the cause of the seizure thereof, and give judgment; and if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Customs, Salt, and Opium.

XXX. Whenever any goods or chattels shall be seized as aforesaid, and within one Calendar month no person shall appear before the Collector to claim the same, the Justice shall examine into the cause of seizure, at a place and time, of which notice

shall have been given by the Collector in the *Calcutta Gazette*, and give judgment for the confiscation of such of the goods and chattels, as, upon such examination, shall appear to him liable to forfeiture; and, upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend the said Justice.

XXXI. All fines leviable under this Act, except under Section XXXVIII., shall be adjudged by any Justice of the Peace for the Town of Calcutta, and the said Justice, upon information exhibited before him by order of the Collector, shall forthwith summon the parties accused, and upon their appearance or default shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable, by order of the said Justice, to imprisonment in the common Jail, for a period not exceeding six months, or until the fine is sooner paid; and no proceedings shall be taken under this Section by any Justice of the Peace after the expiration of three Calendar months from the date of the offence by which the fine was incurred.

XXXII. Whenever any person shall be convicted before any such Justice as aforesaid of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the common Jail, for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

XXXIII. One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale of spirituous or fermented liquors, or intoxicating drugs, and of the proceeds from sale of articles confiscated, except Opium, (and in the case of Opium confiscated and declared by the Opium Examiner at the Presidency to be fit for use, a reward of one Rupee eight Annas for each seer,) shall upon adjudication of the case, be awarded to the Officer or

Officers who apprehended the offender, or seized the illicit articles, and the other half, or in the case of Opium as aforesaid, a reward of one Rupee eight Annas for each seer, shall be given to the Informer; and, if no fine is realized, the Board of Customs, Salt, and Opium may grant such reasonable reward, not exceeding the sum of two hundred Rupees as may appear to them fit: and the Board of Customs, Salt, and Opium may direct, by General Order, what class of Abkaree Officers shall receive rewards, and what classes shall have no title to share therein.

XXXIV. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Customs, Salt, and Opium may grant any portion thereof, not exceeding one-half, as rewards to Informers or as compensation to parties injured by any proceedings under this Act.

XXXV. No Writ of *Certiorari* shall be issued at the suit of any party out of the Supreme Court of Judicature, to supersede, stay, remove or in any wise affect any information or judicial proceeding before any Justice of the Peace, in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

XXXVI. When any penalty or confiscation shall be adjudged by a Justice of the Peace under this Act, the Commissioner of Abkaree, and, in his absence, the Board of Customs, Salt, and Opium, within one month after judgment given, may call for the proceedings of the case (with which requisition the Justice of the Peace shall be bound to comply) and, if he or they shall see cause, may direct that the seizure, or any part thereof, be restored, and may remit or mitigate any penalty, and discharge the party.

XXXVII. All actions and prosecutions to be commenced against the Collector or any Abkaree Officer, or any person acting in aid of any such Officer, for any thing done in pursuance of this Act, shall be commenced within three Calendar months after the fact committed, and not afterwards; and notice in writing of such action, and of the cause thereof, shall be given to the Defendant one Calendar month at least before the commencement of the action; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if, after action brought, a sufficient sum of money

shall have been paid into Court, with costs, by or on behalf of the Defendant.

XXXVIII. The Collector, in respect of the duties to be performed by him under this Act, shall have power to punish any contempt committed in his presence in open Cutcherry, by fine, not exceeding two hundred Rupees, commutable, if not paid, to imprisonment in the Common Jail, for a period not exceeding one month: provided, that an appeal from any order passed under this section shall lie to the Commissioner of Abkaree, and in his absence, to the Board of Customs, Salt, and Opium; and the decision of the Commissioner of Board thereon shall be final.

BOMBAY.—SUDDER ADAWLUT.

ACT. No. XII. 1849.

[*Passed on the* 11*th August*, 1849.

Recites that the jurisdiction of the S. A. had been impaired by its removal to the island of Bombay, &c.

1. *S. A. and officers to have same authority in all respects, &c. as if Court were held in Zillah, out of island of Bombay.*

2. *Acts and orders of S. A. and of its officers in execution of process, &c. not liable to question in Supreme Court otherwise than if situated out of island of Bombay.*

3. *Criminal Court having cognizance of offence under S.* 36. *of R.* 2 1827, *may issue warrant, &c.*

4. *Offenders against S.* 36, *R.* 2, 1827, *may be tried after they have ceased to be officers.*

For improving the jurisdiction of the Sudder Adawlut of Bombay, and for amending Section XXXVI., Regulation II. 1827, of the Bombay Code.

Whereas the jurisdiction of the Sudder Adawlut of the Presidency of Bombay has been impaired by its removal to the Island of Bombay, within the jurisdiction of the Supreme Court of Judicature there, for remedy thereof it is enacted as follows:

I. The Sudder Adawlut of the Presidency of Bombay, and the several Officers thereof shall have the same authority in all respects, and all persons may be proceeded against and punished for contempt or disobedience of the lawful orders of the Court, or for resistance to the lawful authority of any Officer in execu-

tion of any process or order of the Court, as if the Court were held in the Zillah nearest to the Island of Bombay.

II. The Acts and Orders of the said Sudder Adawlut, and of its Officers, in execution of any process or order of the Court, shall not be liable to question in the Supreme Court of Judicature at Bombay, further or otherwise than they might severally be questioned in the said Supreme Court, if the said Sudder Adawlut were held in the Zillah nearest to the Island of Bombay.

III. Any Criminal Court, having cognizance of any offence under Section XXXVI., Regulation II. 1827, of the Bombay Code, may issue a warrant under the hand of the Judge, or one of the Judges, and the seal of the Court, for the arrest of the person accused, and may commit him to jail, unless security be given to the satisfaction of the Court for his appearance to answer the charge.

IV. Offenders against Section XXXVI., Regulation II. 1827 of the Bombay Code, may be tried and punished for the offence after they have ceased to belong to the establishment of the Court to which they belonged at the time of committing the offence.

CALCUTTA.—SALT SMUGGLING.

ACT No. XIII. OF 1849.

[*Passed on the* 18*th August*, 1849.

1. *G. of B. may establish Chokies for prevention of smuggling salt into Calcutta, &c. such chokies to be under officer, to be styled "The Superintendent of Salt Chokies," and to be subject to Board, &c.*

2. *Superintendent may appoint Darogahs, &c. to assist him, and to be styled "Officers of Salt Chokies."*

3. *Except foreign salt, &c. no greater quantity than* 10 *seers to be imported, or carried, or stored, within the town, except under a rowannah, &c.*

4. *Salt found within the town, &c. in contravention of this Act, liable to seizure, &c. and more than* 10 *seers carried by several persons, in gangs or companies carrying, to be deemed contraband, but less than a maund in store not to be deemed contraband, &c.*

5. *Carrying within the town, under a rowannah, &c. a quantity greater by one-fortieth than specified in the rowannah: the whole to be deemed contraband, and liable to seizure, and person in charge to be fined at rate of* 10 *rupees per maund for excess.*

6. *Ss.* 36 *to* 47, *of R.* 10, 1819, *and R.* 4, 1832, *respecting rowannahs, to be applicable within Calcutta, &c.*

7. *Vessels, &c. containing contraband salt liable to confiscation with the salt.*

8. *Persons having in their possession contraband salt liable to fine, &c.*

9. *Superintendent of salt chokies, &c. may stop and detain person carrying salt without a rowannah.*

10. *Superintendent may enter any place to seize salt exceeding one maund suspected to be contraband, and break open doors, and arrest and detain owner, or may empower officer to do so, and in entering zenana to follow like rules as Supreme Court.*

11. *Constables, &c. to aid Superintendent and Salt Officers, and refusing to do so, to be liable to fine.*

12. *Seizures by Sperintendent to be recorded in his office, and seizures by his subordinates to be reported to him.*

13. *Person giving false information against another for contravention of salt laws, liable to fine, &c.*

14. *Person obstructing, &c. Superintendent, &c. in execution of this Act, liable to fine, &c. and if affray, &c. happens, liable to further punishment for it.*

15. *Officer empowered to seize, &c. delaying any duty in that behalf liable to fine, &c.*

16. *Officer vexatiously and unnecessarily making seizure or arrest, liable to fine, &c.*

17. *Officer conniving at smuggling, or releasing, &c. prisoner, or acting contrary to his duty, whereby law is evaded, liable to fine, &c.*

18. *Officer asking or taking gratuity, &c. not authorized, for corrupt consideration, liable to fine.*

19. *Superintendent to carry person, &c. arrested and seized, before Justice, and officers to Superintendent: Superintendent may release from improper arrest or seizure.*

20. *Cases of salt seizure to be heard summarily before Justice. Justice to proceed by summons and warrant.*

21. *Salt, &c. seized, not claimed within one month may be confiscated by Justice, after notice, &c.*

22. *Fines leviable under this Act to be recovered upon information before Justice, but not after 3 months: Justice how to proceed, by summons, &c.*

23. *Person convicted before Justice of second or third, &c. offence, to suffer 6 months' imprisonment, in addition to other penalty.*

24. *Half of all fines for smuggling, &c. and of proceeds of sales of confiscated articles, shall be awarded to officer; other half to informer, and where no fine, reward may be granted by Board, &c. Board may direct what classes of officers shall and what not share in rewards.*

25. *Fines not disposed of by this Act to belong to Government, but Board may grant rewards, &c. out of them.*

26. *No writ of* Certiorari *to lie to stay, &c. proceedings.*

27. *If penalty or confiscation is adjudged by Justice, Board may call for proceedings, and give relief against them, &c.*

28. *Actions against Superintendent, &c. not to lie more than 3 months after*

fact committed, nor without notice one month before action, and tender of sufficient, amends to bar action, and payment into Court to bar further proceedings.

29 *Term "alimentary salt" to include Noonchye, Puckwah, &c.*

To prevent the Smuggling of Salt into Calcutta.

For preventing the smuggling of Salt into Calcutta, It is enacted as follows:

I. The Governor of Bengal may establish as many Chokies as he shall deem necessary for preventing the smuggling of alimentary Salt into the Town of Calcutta, and upon that part of the River Hooghly which lies within the local jurisdiction of the Supreme Court, and such Chokies shall be under the charge of an Officer to be styled "The Superintendent of Salt Chokies," who, in the exercise of his functions, shall be subject to the control of the Board of Customs, Salt, and Opium.

II. The Superintendent may appoint Darogahs, Mohurrers, Jemadars, Burkundauzes, and other Officers to assist him in the discharge of his duties; and the Officers so appointed, beside their ordinary respective designations, shall be styled "Officers of Salt Chokies."

III. Excepting salt imported by sea, and stored under bond, as provided by Act No. XXV. 1836, it shall not be lawful to import alimentary Salt into the Town of Calcutta, or to carry such Salt within the said Town, or upon the River Hooghly, as aforesaid, in excess of the quantity of ten seers, of eighty tolahs to the seer, or to store such Salt within the said Town in quantities exceeding one maund, except under a Rowannah, or Special Pass from the Board of Customs, Salt, and Opium, or a Charchitte, or Pass from the said Superintendent, to be granted under such rules, and on the payment of such fees, as the said Board shall direct.

IV. All alimentary Salt, found within the said Town, or upon the River Hooghly, as aforesaid, in contravention of this Act, shall be deemed contraband, and liable to seizure and confiscation; and if several persons shall be found carrying Salt, unprotected by a Rowannah, or Charchittee, as aforesaid, in gangs, or companies, which Salt shall exceed in the whole quantity ten seers such Salt shall be deemed contraband; but no Salt, found in store in any house or warehouse, shall be deemed to be contraband, unless, when the search is made, there shall be found more thereof than one maund, and the owner or person in

charge shall be unable to account satisfactorily, for the manner of its being found in his possession.

V. If any person shall carry, or attempt to carry, within the said Town or upon the River Hooghly, as aforesaid, under a Rowannah, or Charchittee, a greater quantity of Salt than shall be therein specified, the excess shall be deemed contraband, and if such excess is found to be more than one-fortieth part of the quantity so specified, the whole quantity shall be deemed contraband, and liable to seizure and confiscation; and the gomastah, or other person in charge of the Salt, shall be liable to a fine of ten Rupees for every maund of Salt, in excess of the quantity specified in the said document: And the excess shall be calculated upon the whole despatch as provided in Section II. Regulation IV. 1832, of the Bengal Code.

VI. The provisions contained in Sections XXXVI. to XLVII. both inclusive, Regulation X. 1819, and in Regulation IV. 1832, of the Bengal Code, as to the preparation, currency, renewal, production, endorsement, delivering up, and falsifying of Rowannahs, or other protective documents, shall be applicable within Calcutta, and on the River Hooghly as aforesaid.

VII. Whenever any Salt shall be seized as contraband, the vessels, packages, and coverings, in which such Salt shall be found, and the animals and conveyances used in carrying it, shall also be liable to seizure and confiscation.

VIII. All persons in whose possession Contraband Salt shall be found, except in the case provided for by Section V. of this Act, shall be liable to a fine, calculated at a rate, not exceeding five Rupees for each maund, upon the quantity so found; and each one of a party of smugglers, or of the parties to the fraud on the Revenue, shall be liable to the whole fine.

IX. The Superintendent of Salt Chokies, and any of his Subordinate Officers, and any Officer of any other Department, whom the Governor of Bengal shall authorize in that behalf, may stop and detain any person removing, or carrying any Salt, without a Rowannah or Charchittee, or otherwise liable to confiscation under this Act; and may seize the Salt, with the vessels, packages, and coverings, in which the Salt is found, and the animals and conveyances used in carrying it.

X. If the Superintendent has good reason to believe, either

from information given by any of his Subordinate Officers or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that Contraband Salt, exceeding in quantity one maund, is stored in any place, it shall be lawful for him, between sunrise and sunset, but always in the presence of a Constable, or other Officer of the Peace, to enter into every such place where any such Contraband Salt as aforesaid, is suspected to be stored, and to seize and carry away the same; and, in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal as aforesaid; and to arrest and detain the owner or occupant of the premises, with all parties whom he suspects to be concerned in the unlawful storing whom he shall find on the premises: and if the Superintendent shall not be able to proceed in person to make the seizure, he may, by warrant under his hand, empower any Officer of Salt Chokies, above the rank of a Jemadar of Peons, to make the same; and the Officer so authorized shall proceed in the same manner, and with the same powers, as above provided in respect of the Superintendent himself. Provided that, where there is ground to suspect that such Contraband Salt as aforesaid is concealed in any zenana, the Superintendent or Officer authorized as aforesaid shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort William.

XI. All Constables, and other Ministerial Officers of the Peace, are required to help the Superintendent and his Subordinate Officers, and other Officers authorized to make a seizure of Salt, in the due execution of this Act, upon notice given or request made by the Superintendent, or any such Officer. Any Officer, who, without lawful excuse, shall refuse or neglect to help as aforesaid, on being required to do so, shall be liable to a fine, not exceeding five hundred Rupees.

XII. Whenever a seizure of Salt in store, in any place, shall be made by the Superintendent, the facts of the seizure shall be recorded in an Official proceeding, to be placed on record in his Office; and if the seizure shall be made by a Subordinate Officer, such Officer shall report the circumstances, within twenty-four hours, to the Superintendent.

XIII. Every person, who shall maliciously give false informa-

tion against any person for importing or transporting, or in respect of there being in any house or shop any Salt, in contravention of this Act, shall be liable to a fine, not exceeding five hundred Rupees, or to imprisonment in the Common Jail for a period not exceeding six months, or both.

XIV. Every person, who shall obstruct or molest the Superintendent, or any Officer of Salt Chokies, or any Officer of another Department duly authorized to make a seizure of Salt, or any person acting in aid of the Superintendent, or any Officer as aforesaid, in the due execution of this Act, shall be liable to a fine not exceeding five hundred Rupees: and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affiray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

XV. Any Officer of Salt Chokies, or any Officer of another Department, duly empowered to make a seizure of Salt, who, without reasonable cause, shall delay carrying any person arrested, or any illicit articles seized, under this Act, to the Superintendent, or neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter, shall be liable to a fine, not exceeding two hundred Rupees.

XVI. Any Officer of Salt Chokies, or any Officer of another Department, as aforesaid, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for Contraband Salt, or who shall vexatiously or unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty, shall be liable to a fine, not exceeding five hundred Rupees.

XVII. Any Officer employed in the Salt Chokie Department, or any Officer of another Department, as aforesaid, who shall connive at the smuggling of Salt, or unlawfully release or connive at the escape of any person arrested under this Act, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do any thing, whereby any of the provisions of this Act may be evaded or broken, or the revenue derived from Salt defrauded, shall be liable to a fine, not exceeding five hundred Rupees.

XVIII. Any Officer employed in the Department of Salt Chokies, or any Officer of another Department, as aforesaid, who shall ask or take any gratuity, not authorized by any law, or order of Government, or of the Board of Customs, Salt, and Opium, in consideration of doing or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding five hundred Rupees.

XIX. Whenever the Superintendent shall arrest any person, or shall seize any Contraband Salt, he shall, with all convenient despatch, carry the person arrested, with the Salt, and any other chattels liable to confiscation, seized therewith, before any Justice of the Peace for the Town of Calcutta, and if the arrest or seizure shall be made by any of his Subordinate Officers, or other Officer duly empowered, such Officer shall immediately carry the person arrested, and the articles seized, to the Superintendent, who shall thereupon proceed as if the arrest or seizure had been made by himself. Provided, that nothing in this section shall be construed to prevent the Superintendent from releasing any persons arrested, or property seized, when he considers such persons or property to have been improperly arrested or seized.

XX. Whenever any Salt, or other chattels shall be seized by the Superintendent, or other duly authorized Officer, as liable to confiscation under this Act, such seizure shall, upon information exhibited by the Superintendent, be heard and determined in a summary way by such Justice of the Peace as aforesaid; and such Justice shall cause the persons, to whom such Salt, or other chattels belong, to be summoned to appear before him, and, upon their appearance or default, shall examine into the cause of the seizure thereof, and give judgment; and upon confiscation thereof shall issue his Warrant to the Superintendent for the disposal thereof, according to the orders of the Board of Customs, Salt, and Opium.

XXI. Whenever any Salt, or other chattels shall be seized as aforesaid, and no person shall appear before the Superintendent, within one calendar month, to claim the same, the Justice shall examine into the cause of the seizure, at a place and time of which notice shall have been given by the Superintendent in the *Calcutta*

Gazette, and give judgment for the confiscation of such Salt and other chattels, as, upon such examination, shall appear to him confiscable; and upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend the said Justice.

XXII. All fines, leviable under this Act, shall be adjudged by any Justice of the Peace for the Town of Calcutta, and the said Justice, upon information exhibited before him by the Superintendent, shall, with all convenient despatch, and not later than three calendar months after the act for which the fine may be demandable, summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and in default of payment of any fine to which an offender is adjudged, he shall be liable, by order of the said Justice, to imprisonment in the Common Jail of Calcutta for a period not exceeding six months, or until the fine is sooner paid.

XXIII. Whenever any person shall be convicted before any Justice, of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Common Jail, for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months shall be incurred, in addition to the punishment, which may be inflicted for a first offence, upon every subsequent conviction after the second.

XXIV. One-half of all fines levied from persons convicted of the illicit importation, transportation, or storing of Salt, and of the proceeds from sale of articles confiscated, shall, upon adjudication of the case, be awarded to the Officer or Officers subordinate to the Superintendent, or other duly authorized Officer of another Department, who apprehended the offender, or seized the illicit articles; and the other half of all such fines and proceeds shall be given to the Informer; and if no fine is realized, the Board of Customs, Salt, and Opium may grant such reasonable reward, not exceeding the sum of two hundred Rupees, as may appear to them fit; and such Officers and Informers shall further

be entitled to the rewards specified in Section IV. Act No. IX. 1835. Provided, that the Board of Customs, Salt, and Opium may direct, by General Order, what classes of Officers of Salt Chokies shall receive rewards, and what classes shall have no title to share in them.

XXV. All fines, levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Customs, Salt, and Opium may grant any portion thereof, not exceeding one-half, as rewards to Informers, or as compensation to parties injured by any proceedings under this Act.

XXVI. No writ of Certiorari shall be issued at the suit of any party, out of the Supreme Court of Judicature, to supersede, stay, remove, or in anywise affect any information, or judicial proceeding before any Justice of the Peace, in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

XXVII. When any penalty or confiscation shall be adjudged by a Justice of the Peace under this Act, the Board of Customs, Salt, and Opium, within one month after judgment given, may call for the proceedings of the case, (with which requisition the Justice of the Peace shall be bound to comply) and, if they shall see cause, may direct that the seizure, or any part thereof, be restored, and remit or mitigate the penalty, and discharge the party.

XXVIII. All actions and prosecutions to be commenced against the Superintendent, or any Officer of Salt Chokies, or any Officer of another Department duly empowered to seize Contraband Salt, or any person acting in aid of the Superintendent, or other Officer, as aforesaid, for any thing done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards; and notice in writing of such action, and of the cause thereof, shall be given to the Defendant, one calendar month at least before the commencement of the action; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the Defendant.

XXIX. The term alimentary Salt as used in this Act shall be

held to include and apply to Noonchye, Puckwah, and every other kind of salt substance, used as a seasoning for food.

ARMY AND NAVY.

Repealed by XVII of 1862

ACT No. XIV. OF 1849.

[*Passed on the 25th August*, 1849.

Recites insufficiency of laws for punishing tampering with Army and Navy.

1. *Enacts person maliciously, &c. endeavouring to seduce any person serving or engaged to serve in Military or Naval Forces of E. I. Co. from his allegiance, &c. or stirring up to commit act of mutiny, or making, &c. a mutinous assembly, or to commit any traitorous, &c. practice, liable to transportation for life, or imprisonment, &c. for 7 years.*

2. *For offence under the Act, Magistrate may commit for trial by Sessions Court or Supreme Court as case may be.*

3. *No Futwa from law officer to be required.*

4. *This Act not to affect liability of offender to be tried by Court Martial.*

To punish tampering with the Army or Navy.

Whereas the laws in force for punishing mutiny and sedition do not sufficiently provide for the punishment of all persons endeavouring to stir up mutiny and sedition among the Forces of the East India Company, or to seduce them from their allegiance and duty, It is enacted as follows:

I. Every person, who maliciously and advisedly endeavours to seduce any person or persons, serving or engaged to serve in the Military or Naval Force of the East India Company, from his or their allegiance to Her Majesty, or duty to the said Company, or who endeavours to stir up any person or persons belonging to either of the said Services, to commit any act of mutiny, or to make or endeavour to make any mutinous assembly or to commit any traitorous or mutinous practice whatsoever, shall, on conviction, suffer transportation for life, or imprisonment, with or without hard labour, for any term, not longer than seven years, as the Court shall adjudge.

II. Any person charged with any offence, punishable under this Act, may be committed by any Magistrate within the territories under the Government of the East India Company, and shall be tried by the Court of Sessions, or if the offender be not within the ordinary jurisdiction of the Court of Sessions, by the Su-

preme Court of Judicature established by Royal Charter within the Presidency in which he is in custody.

III. No Court shall on the trial of any offence under this Act require any Futwa from any Law Officer.

IV. This Act shall not exempt any person governed by the Articles of War from being tried by a Court Martial, and punished according to the Articles of War, nor any person belonging to the Indian Navy from being tried by a Court Martial, and punished according to the laws for the observance of discipline in the Indian Navy; but no person shall be tried for the same offence under the said Articles or Laws, and also under this Act.

BOMBAY.—STAMPS.

ACT No. XV. OF 1849.

[*Passed on the 25th October*, 1849.

Repeals Cl. 1. *S.* 6 *R.* 18, 1827, *of Bombay Code.*

An Act to amend the Law respecting the Stamped Material in use in the Presidency of Bombay.

Whereas it is inconvenient to specify particularly by law the stamped materials to be used in the Presidency of Bombay, It is enacted as follows:

I. Clause 1st, Section VI. Regulation XVIII. 1827, of the Bombay Code, is repealed.

CALCUTTA.

ACT No. I. OF 1850.

[*Passed on the* 11*th January*, 1850.

Recites the expediency of making a good Title to Lands taken for public purposes.

1. *Enacts. The first seven sections of Regulation* 1, 1824, *to be applicable to Lands in Calcutta needed for any public purpose.*

2, 3. *Government Securities taken under cl.* 5 *of sec.* 6, *where to be deposited pending the question as to person entitled to it: and* (2) *who may draw interest on such Securities.*

For confirming the title to lands in Calcutta taken for public purposes.

Whereas the execution of works of public usefulness in Cal-

cutta is liable to be hindered by the difficulty in making a good title to the land taken for such purpose, It is enacted as follows:

I. The powers and provisions of the first seven Sections of Regulation I. 1824 of the Bengal Code, shall be applicable to all lands within the Town of Calcutta, which shall have been declared by the Governor of Bengal to be needed for any public purpose; and such declaration shall be conclusive evidence that the purpose for which the lands are needed is a public purpose.

II. In all cases in which payment of any part of the purchase or compensation money is reserved according to the Fifth Clause of Section VI. of the said Regulation, on account of any lands taken for any public purpose under this Act, the Government Securities mentioned in the said Clause shall be deposited with the Government Agent at Fort William in Bengal, in the name and with the privity of the Accountant General of Her Majesty's Supreme Court of Judicature at Fort William, to be placed by him to the credit of the persons interested in such lands, describing them as nearly as may be done according to the course of proceeding in the said Court in matters and causes depending before it in Equity.

III. The said Securities shall remain in the hands of the Government Agent, and the interest accruing thereon shall be, from time to time, received and paid under the order of the said Supreme Court to the person or persons for the time being, who would have been entitled to receive the rents and profits of the said lands, if the same had not been taken as aforesaid, until there shall be some person or persons absolutely entitled to receive the principal sum of the monies so reserved, and thereupon the said Government Securities, with all interest then due thereon, shall be transferred and paid to such person or persons under the like order of the said Court, and so long as no person can be found entitled to receive the interest of the said Government Securities, the Government Agent shall continue to receive, and from time to time, to invest the accumulation of interest due thereon in the purchase of other Government Securities, to be held and applied by him on the same trusts as the Securities first purchased.

MADRAS AND BOMBAY.

ACT No. II. OF 1850.

[*Passed on the 11th January*, 1850.

Recites expediency of making new provisions regarding Administration of Intestate Estates.

1. *Enacts. Act. No. 7, 1849, extended to Presidencies of Madras and Bombay.*

2. *Offices of Ec. Registrar and Administrator General may be held by same person.*

3. *The lower rate of Commission allowed by Act 7, not to take effect until directed by G. in Council.*

4. *To be a misdemeanour for any Administrator General to trade or traffic for his own benefit, or for benefit of other persons, except in due course of administration.*

An Act to amend and extend to Madras and Bombay Act No. VII. 1849.

Whereas it is expedient to make new provisions for regulating the Administration of the Estates of British Subjects, dying intestate in the several Presidencies of Fort St. George and Bombay, It is enacted as follows:

I. Act No. VII. 1849 shall be extended, and apply to the several Presidencies of Fort St. George and Bombay, subject to the alterations, hereafter contained, as if, with reference to each of the said Presidencies such Presidency were named therein instead of Bengal and Fort William in Bengal; and the Governor of such Presidency in Council instead of the Governor General of India in Council, and the Chief Town of such Presidency, instead of Calcutta.

II. The Administrator General at Fort St. George and Bombay respectively, shall not cease to be Ecclesiastical Registrar of the Supreme Court there by virtue of this Act; and the two Offices of Ecclesiastical Registrar and Administrator General may be held at Fort St. George or Bombay respectively, by the same person.

III. The altered rate of Commission, receivable by the Administrator General at Fort St. George and Bombay respectively, under Act VII. 1849 and this Act shall not take effect until such alteration shall be directed by the Governor

of Fort St. George and Bombay in Council respectively, until which several times the same rate of Commission may be lawfully taken there by the Administrator General as might have been taken by the Ecclesiastical Registrar before the passing of this Act.

IV. It is and is declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General, in any of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, to trade or traffic for his own benefit, or for the benefit of any other person or persons whomsoever, unless so far as appears to him expedient for the due management of the Estates administered by him, and for the sole benefit of the several persons entitled to the proceeds of such Estates respectively, but this exception is not to be construed to alter the Civil liabilities of the Administrator General as trustee for the Estates administered by him.

MADRAS.—JUDICIARY.

Repealed by X 07/61

ACT No. III. OF 1850.

[*Passed on the* 11*th January*, 1850.

Modifies S. 2 *of Act* 11, 1836, *by abolishing all exemptions from the jurisdiction of S. Ameens and District Moonsiffs.*

An Act for amending the Law concerning the jurisdiction of the Courts of Sudder Ameens and District Moonsiffs, in the Presidency of Fort St. George.

In modification of Section II. of Act XI 1836, It is enacted as follows:

I. After the passing of this Act, no person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever exempt from the jurisdiction of the Courts of the Sudder Ameens and district Moonsiffs, in the Territories subject to the Presidency of Fort St. George.

BENGAL.--JUDICIARY.

ACT No. IV. OF 1850.

[*Passed on the 15th February*, 1850.

Modifies R. 6, 1793, *S.* 10. *R.* 12, 1797, *S.* 3. *R.* 26, 1814, *S.* 8.

1. *Petitions of Regular Appeal to the Sudder to be presented within six weeks after the decision. What the petition shall contain.*

2, 3. *Proceedings in the appealed cause to be certified to the Sudder and notice thereof to be given to appellant, who* (3) *within three months after receipt of notice shall present to the Sudder his grounds of appeal.*

For the amendment of Procedure in Cases of Appeal to the Sudder Court.

Whereas inconvenience has resulted from the rule allowing petitions of Appeal to the Sudder Dewanny Adawlut from Judgments of Principal Sudder Ameens, or of the Judges of the Zillah or City Courts, to be presented either in the Sudder Court, or in the Court in which the decision was passed, and from the rule allowing the specific objections to the Judgment and detailed grounds and reasons for preferring the Appeal to be, at the option of the party, either stated in the original petition of Appeal, or afterwards filed in the Court trying the Appeal, as a separate pleading, It is enacted as follows, in modification of Section X., Regulation VI., 1793, Section III., Regulation XII., 1797, and Section VIII., Regulation XXVI., 1814, of the Bengal Code.

I. Every petition of Regular Appeal, in a case appealable to the Sudder Court, shall be presented to the Court in which the decision was passed, within six weeks from the day of the decision: such petition of Appeal shall contain only notice that the party, being dissatisfied with the Judgment, is desirous of appealing from it.

II. The proceedings held in the cause of Appeal shall be certified to the Sudder Dewanny Adawlut as soon as conveniently may be done; and notice thereof in writing shall be given to the Appellant.

III. Within three months after receipt of such notice the Appellant shall present to the Sudder Dewanny Adawlut the specific objections to the Judgment and detailed reasons for

preferring the Appeal; otherwise it shall be dismissed, unless he shall show reasonable cause to the satisfaction of the Sudder Court for his default.

COASTING TRADE.

ACT No. V. OF 1850.

[*Passed on the 8th March*, 1850.

Recites Statute of 13 *Vic.*

Enacts, Foreign Ships put on same footing as British Ships in the Coasting Trade of India.

An Act for freedom of the Coasting Trade of India.

Whereas by an Act of Parliament passed in the thirteenth year of the reign of Her Majesty, intituled an Act to amend the Laws in force for the encouragement of British Shipping and Navigation, it is enacted with regard to the Coasting Trade of India, that it shall be lawful for the Governor General of India in Council to make any regulations authorising or permitting the conveyance of goods or passengers from one part of the possessions of the East India Company to another part thereof, in other than British Ships, subject to such restrictions or regulations as he may think necessary, It is enacted as follows:

I. Goods and Passengers may be conveyed from one part of the territories under the Government of the East India Company to another part thereof, in other than British Ships, without any restriction, other than is or shall be equally imposed on British Ships, for securing payment of duties of customs or otherwise.

MILITARY LAW.—NATIVE ARMY.

Repealed by XXIX of 1861

ACT No. VI. OF 1850.

[*Passed on the* 15*th March*, 1850.

1, 2, 3. *Commander-in-Chief in each presidency may pardon or remit punishment of purely Military offences of Native Officers and Soldiers;* (2) *by warrant.* (3) *Countersigned by Magistrate, &c.* (4) *to which all Sheriffs, Gaolers, &c., shall give effect.*

For enabling the Commander-in-Chief to pardon Military Offences.

Whereas the power of pardoning persons under sentence of a Court Martial, for offences which are not punishable by any other authority, may be entrusted to the Commander-in-Chief of the Military Forces in the service of the East India Company in each Presidency, but in all other cases ought to belong only to the Supreme Government, It is enacted as follows:

I. The Commander-in-Chief of the Military Forces in the service of the East India Company in each Presidency shall have power to pardon any person belonging to the said Forces, convicted by sentence of a Court Martial of any offence against the Articles of War framed for the government of the Native Officers and Soldiers in the Military service of the East India Company, which, wherever committed, is not punishable otherwise than by sentence of a Court Martial; or, instead of granting a full pardon to any such person, may remit any part of the punishment awarded for such offence.

II. In such cases, the Commander-in-Chief shall issue a Warrant under his hand, setting forth the offence, and a copy of the Warrant or other instrument by which the offender is kept in custody in execution of the sentence, and pardoning or remitting such part of the punishment awarded for the offence as to him shall seem fit.

III. The said Warrant shall be countersigned by the Magistrate of the Zillah, or City in which the offender is undergoing his sentence; or if he is confined in any prison belonging to one of the Supreme Courts of Judicature established by Royal Charter, shall be countersigned by a Judge of such Court, if it shall appear to such Magistrate or Judge that the offence, wherever committed, is not punishable by any authority other than that of a Court Martial; but not otherwise.

IV. All Sheriffs, Gaolers, and other persons having custody, of any offender under sentence of a Court Martial, shall obey and give effect to any Warrant of the Commander-in-Chief, countersigned by a Magistrate, or Judge of the Supreme Court as aforesaid, for the pardon and release of any offender in their custody respectively, or for the remission of any part of his sentence.

Repealed by XVII of 1862

CRIMINAL LAW.

ACT No. VII. OF 1850.

[*Passed on the* 15*th March*, 1850.

1. *Repeals Act* 8, 1844.

2. *G. or G. in C. of any presidency may order removal of Prisoners from one Jail to another, except Prisoners under sentence of Supreme Courts.*

3. *Time employed in removal of Prisoners to reckon as part of imprisonment.*

An act for better defining the Law as to the removal of Prisoners.

Whereas, by the Regulations in force, prisoners may in certain cases be removed from one prison to another by special order of the Nizamut Adawlut or Fouzdaree Adawlut, and in other cases by the Governor or Governor in Council of the Presidency; and it is expedient that the Government should be empowered to direct such removal, in every case which appears necessary, without application to the Court for a special order, It is enacted as follows:

I. Act VIII. 1844, is repealed.

II. When any person is under sentence of imprisonment, within the territories under the Government of the East India Company, by any authority other than that of one of the Supreme Courts of Judicature established by Royal Charter, the Governor or Governor in Council, or other person administering the Government of the Presidency or place, may order the removal of such prisoner from the prison, or place, in which he is confined, to any other public prison or place of confinement within the same Presidency or Government.

III. The time of removal from one prison to another, or while the prisoner is in custody under such warrant of removal, shall reckon as part of his imprisonment.

BENGAL.--APPEALS.

Repealed by X of 1861

ACT. No. VIII. 1850.

[*Passed on the* 15*th March*, 1850.

1. *Certain powers of Zillah and City Judges extended to P. S. Ameens on appeals referred to them.*
2. *Judge and P. S. A. to record reasons for disallowing appeal.*

An act to amend the law for enabling Zillah and City Judges and Principal Sudder Ameens, in certain cases of Appeal, to confirm the decision without summoning the Respondent.

Whereas, it will lessen the delay and expense of Appeals, if the powers possessed by Zillah and City Judges of confirming decisions on certain Appeals without serving any notice on the Respondents, are extended to Principal Sudder Ameens, It is enacted as follows:

I The powers given to Zillah and City Judges, by Clause Third, Section XVI. of Regulation V. 1831 of the Bengal Code, are extended to Principal Sudder Ameens, in all Appeals referred to them.

II. Every Judge and Principal Sudder Ameen who shall confirm any decision under the said Regulation, or this Act, without giving notice to the Respondent, shall record his reasons for rejecting the Appeal.

SMALL CAUSE COURTS' ACT. See Act XXII 1861

ACT No. IX. OF 1850.

[*Passed on the* 15*th March*, 1850.

1. *The Courts of Commissioners and of Requests in Calcutta, Madras and Bombay, to be holden according to this Act after proclamation.*
2. *Interprets the words "Governor" and "Supreme Court."*
3. *From proclamation under this Act, all prior laws relating to the said Courts to stand repealed.*
4. *Courts to be called, "Courts of Small Causes," &c.*
5. *Jurisdiction of Court to remain as of old Court and may be extended with sanction of Government of India.*
6. *Small Cause Courts to be Courts of Record, &c.*

7. *Proceedings commenced in old Court may be continued in Court under this Act.*

8. *The G. in C. to appoint not more than three Judges, one of whom to be a Barrister at Law or Advocate of Supreme Court or of Court of Session.*

9. *No Judge under this Act to practise as an Advocate, &c., or trade or traffic, or be the partner of any person so trading or trafficking.*

10. *The G. G. in C. may remove any such Judge on the application of the G. in C.*

11, 12. *European Judges of Supreme Courts to act as Judges of Small Cause Court, and to try suits, &c., and* (12) *when they so act, the duties of Clerk and Bailiffs to be performed by such Officers of Supreme Court as are appointed from time to time for that purpose, who shall be remunerated out of fees, &c.*

13. *A Clerk to be appointed by the Judges of the Court, &c.*

14. Duties of Clerk. *To issue Summonses, &c., keep an account of all proceedings, have charge of all fees, fines, &c. and monthly submit his accounts to be audited, &c.*

15. *Judges to appoint Bailiffs.*

16. Duties of Bailiffs. *To attend sittings of Court, serve summonses, &c., execute warrants, &c.*

17. *Clerk and Officers neither directly nor through partner to be concerned as an Attorney nor in trade or profession, under penalty of Rupees 500 to common informer.*

18. *Clerk and Bailiffs to give security for due performance of duties.*

19. Fees. *Fees to be paid by suitors according to Schedule and one-eighth more for a general fund.*

20. Fees when to be paid. *To be paid by Plaintiff before summons: and subsequent fees how. What fees payable by Defendant. If case settled by agreement half the fees to be returned and Judges may remit or exempt from fees poor parties.*

21, 22. *G. in Council empowered to lessen and again raise scale of fees: and* (22) *to make rules for securing balances, &c.*

23. *Courts to sit daily except on Sundays, &c., and Judges may sit apart or together.*

24. *Every Court to have a seal, and forging same or issuing feigned process, to be a felony.*

25. Jurisdiction of the Court. *Jurisdiction to extend to debts, damages and property to amount of 500 Rs. Suits to be heard in a summary way: and defence on grounds of Equity to be admitted. Jurisdiction not to extend to matters of revenue nor to acts done, &c. by G. G., or any Member of Council, &c. nor by any Judge, &c. nor by any Officer acting in pursuance of any judgment, nor to suits for libel or slander.*

26, 27. *Summonses how to be made and served. Misnomers and inaccurate description of person or place, and* (27) *misstatement of cause of action not to vitiate summons: but, Judge may correct the record, and afterwards proceed with cause if defendant is present, otherwise shall issue a new summons.*

28. What persons within jurisdiction. *All dwelling or carrying on business*

or working within the district, or who did so within six months, if cause of action arose within same time.

29, 30. *Summonses to be endorsed by local Magistrate, &c., of district where they have to be served; and (30) service of such summonses how to be proved.*

31. *Minors may sue.*

32. *Jurisdiction of Court to extend to unliquidated balances of partnership accounts, distribution share of intestate's estate, and legacies.*

33. *Executors and Administrators may sue and six months after death of principal be sued.*

34. *Causes of action not to be split, but plaintiff may reduce his claim to amount within the jurisdiction.*

35. *Persons privileged from arrest.*

36. *Service of summons on one or more of several jointly liable sufficient: and in case of misjoinder of defendants, Court may proceed against such as are liable.*

37. *All questions of fact and law to be determined as in the Supreme Court.*

38. *On personal appearance of the parties in Court, the cause to be tried in a summary way without formal pleading.*

39. *Defendants may set-off cross claim against the plaintiff.*

40. *Judges with consent of parties may refer matters to arbitration: submission not revocable by parties; and judgments to be given according to award; Judges may set aside award, &c.*

41. *The Judges with consent of Supreme Court may make general rules of practice and for other specified purposes.*

42. *Plaintiff not appearing, cause to be struck out, or failing to prove his case, to be nonsuited. Court may award costs and compensation to defendant for loss of time, and on defendant's admission may give judgment for plaintiff in his absence.*

43. *On default of defendant's appearing, an attachment may issue, or cause may be heard in his absence, &c.*

44. *Judges may give time for prosecuting claim or defence, and may adjourn the hearing.*

45. *Defendant may pay money into Court, after which plaintiff proceeds at peril of costs.*

46. *Plaintiff and defendant, their wives, and all other persons may be examined as witnesses.*

47. *Examinations to be on oath. Solemn affirmation may be taken by those who are exempt from oath. False evidence to be punishable for perjury.*

48. *Summonses to witnesses with or without documents, may be obtained by the parties.*

49. *Persons summoned as witnesses or to produce books, &c. and persons in Court required to give evidence, and not obeying, to be liable to fine not exceeding* 100 *Rupees.*

50. *In suits for exceeding* 30 *Rupees, defendant evading process, or concealing effects may be arrested by warrant, &c.*

51, 52. *Fines imposed by Court, and costs, may be recovered as judgment debts, and costs to abide the event, except when otherwise specially provided.*

53. *Judgments to be final and conclusive except as is excepted. Court may nonsuit: may grant new trial.*

54. *Suits for not exceeding* 100 *Rupees not to be removable into Supreme Courts: nor in any case without leave of Judge of Supreme Court, and only for certain specified reasons.*

55. *Judges may reserve any question of Law or Equity for opinion of Supreme Court. If two Judges sitting together differ, the question in difference shall be referred.*

56. *Judges may order payment of sum recovered, by instalments, &c.*

57. *If the parties have cross-judgments, execution shall be taken out only for the balance of the larger judgment: if judgments are equal, satisfaction shall be entered upon both.*

58, 59. *Execution may be sued out against either the body or goods of the debtor, &c. and* (59) *in case of order to pay by instalments, execution may issue on default of payment, without further notice to the defendant.*

60. *Warrants in execution against the body, to express for what time not exceeding* 6 *months, the party is to be kept.*

61. *No person to be twice taken in execution, nor shall body and goods be taken at same time.*

62, 63, 64, 65. *Persons suing out execution against the body to deposit diet money for a month with Clerk, and* (63) *for subsequent further period with gaoler:* (64) *diet money to be applied to maintenance of prisoner:* (65) *the diet money to be costs in the cause, &c.*

66. 67. *Court may order discharge of prisoner on his giving security for the debt, and on giving such security, or* (67) *payment, prisoner to be discharged.*

68. *Imprisonment in execution not to be a discharge of the debt, but property afterwards to be liable.*

69. What may be taken in execution. *Goods and several specified kinds of choses in action.*

70. *What the Bailiff shall do with cheques, bills and other choses in action seized in execution.*

71. *In favor of defendants unable by sickness, &c. to pay debt, Judges may stay execution on terms, &c.*

72, 73, 74, 75. *Goods taken in execution not to be sold until after* 5 *days: and* (73) *until sold to be placed in safe custody.* (74) *Sworn Brokers and Appraisers to be appointed, and* (75) *goods only to be sold by such sworn Brokers or Appraisers.*

76. *What costs shall be payable for appraisement and sale.*

77. *Clerk to keep an account of proceeds of execution.*

78. *Judgment-debtor going out of jurisdiction of the Court, to be liable to execution out of Zillah Court, unless cause shown to the contrary.*

79. *No judgment, &c. to be stayed, &c., by writ of error, &c., unless amount recovered exceeds* 100 *Rs., and then only upon giving specified security.*

80. *Amount due to be endorsed on warrant, and if tendered, &c. to Clerk, &c. before sale, execution to be stayed,*

81. *Clerk to record summonses, &c. and all other proceedings in a book, to be authenticated by the Judges, and such book to be evidence of the proceedings.*

82. *Clerk, every month, to make a list of monies in Court, unclaimed for the 5 previous years, and after being published in prescribed manner for 1 year, to be carried to Fee fund account, to exclusion of party entitled except in case of Minors, &c.*

83. *Provides punishment for various specified contempts.*

84. *Provides punishment for assaults, &c. on Bailiff, &c. in execution of their duty.*

85, 86. *Provides punishment for neglect, &c. of Bailiffs to execute process, and* (86) *for offences committed under color of official duty.*

87. *Provides punishment for corruption of Clerk, Bailiff, or other Officers of the Court.*

88. *Provides for the case of erroneous execution of process, by seizing the goods of person not a party to the suit.*

89, 90. *Powers of Act* 7, 1847, *to regulate distresses for small rents, extended to rent not exceeding* 500 *Rs. and* (90) *affidavit of rent being in arrear may be made by party entitled or his Attorney.*

91, 92, 93, 94. *Small Cause Court may issue summonses against tenants holding over after expiration of lease, or occupying without leave of owner; if the entire yearly rent or value do not exceed* 500 *Rs. and* (92) *on default of tenant to appear, the Court may hear and determine the cause, and* (93) *on proof of service of summons, &c. may issue warrant of possession to be executed in not less than* 7 *days, &c.;* (94) *such summons, &c. to be served either personally or in special manner by leave of the Court.*

95. *No action to lie against Judge or Bailiff by reason that the person who sued out such warrant of possession had not lawful title.*

96, 97. *Irregular execution of warrant of possession not to be deemed a trespass, if owner was lawfully entitled, but wrong-doer to be liable for damage, &c.: otherwise,* (97) *if owner was not lawfully entitled, and in that case, suing out the warrant to be deemed a trespass: and execution of warrant may be stayed on tenant giving security to prosecute an action to try the right, &c.*

98. *Recovery of possession no bar to suit in Supreme Court to try title.*

99. *Bond given on removal of cause out of S. C. Court, or on staying, &c., execution to be given to plaintiff: and how bond if forfeited may be enforced.*

100, 101. *Officer of Small Cause Court, except as excepted, may be sued in Supreme Court, and* (101) *except in case of suits against Officers, if suit is brought in Supreme Court, and less than* 500 *Rs. recovered in case of debt, or* 100 *Rs. in case of tort, plaintiff shall recover no costs: and if verdict is not found for plaintiff, defendant shall have his costs as between Attorney and Client, except as is excepted.*

102. *In action against Clerk, Bailiff or Officer, if less than* 500 *Rs. is recovered, plaintiff shall recover no costs, unless Judge certifies.*

103. *Penalties, fines and forfeitures may be recovered by conviction before J. P., of mode of recovery provided this Act be not applicable.*

104, 105. *If penalties, &c. are not forthwith paid on conviction, offender may be detained until warrant of execution is returned, unless he give security, &c. and* (105) *if on return of warrant, amount is not levied, offender may be committed for not exceeding* 3 *Calendar months, &c.*

106. *Penalties, &c. to be paid to Clerk and applied in same manner as fees.*

107. *In what manner Justice, &c. shall proceed for recovery of penalties, &c.*

108. *Form of conviction for any offence against this Act.*

109, 110. *No order, verdict, judgment or other proceeding to be quashed for want of form, nor* (110) *distress for any sum of money to be deemed unlawful, &c. on account of default of form in the information, &c. but party aggrieved may recover damages for the irregularity.*

111. Limitation of Actions. *Actions, &c. for any thing done in pursuance of this Act to be commenced within* 3 *Calendar months after the fact committed, and one month previous notice of action in writing; and tender of amends to bar, payment into Court to stay, action.*

Lastly. Schedule of Fees.

An Act for the more easy Recovery of small Debts and Demands in Calcutta, Madras and Bombay.

Whereas it is expedient to amend the constitution and practice, and to extend the jurisdiction, of the several Courts established at Calcutta, Madras and Bombay, for the Recovery of Small Debts, It is enacted as follows:

I. The several Courts of Commissioners and of Requests, for the Recovery of Small Debts, now holden in the Towns of Calcutta, Madras and Bombay, under the authority of the Charter of Justice of King George the Second, and of two Acts of Parliament, severally passed in the thirty-seventh year and fortieth year of the reign of King George the Third, and of the Regulations and Proclamations made, from time to time, for constituting and for new-modelling, altering and reforming the constitution and practice of the said Courts respectively, and of Act XII. 1848, shall be holden according to the provisions of this Act, from and after such several days as shall be declared within the said Towns by proclamation, to be made and published in due form of law in each of the said Towns by the Governor in Council.

II. Where in this Act the words "Governor in Council," or "Supreme Court," are used, they shall be taken to apply severally to the person or persons administering the executive Government, and to the Supreme Court, established under

Royal Charter of each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, with reference only to the Court holden under this Act, in the same Presidency.

III. From and after the day declared in any such proclamation, all provisions of the said Charter of Justice, and Acts of Parliament, and of any Regulation, Act, or Proclamation heretofore made concerning the constitution or practice of the Court referred to in such proclamation, shall be rescinded and repealed.

IV. The style of the several Courts holden under this Act shall be the ( ) Court of Small Causes, inserting in the blank space, Calcutta, Madras, or Bombay, as the case requires.

V. The jurisdiction of the several Courts, holden under this Act, shall extend over the whole district now within the jurisdiction thereof respectively, and over such further district as may, from time to time, be declared by proclamation of the Governor in Council: provided, that no proclamation for extending the district of any of the said Courts be made without the previous sanction of the Governor General of India in Council.

VI. Every Court holden under this Act shall be a Court of Record, and shall be deemed a Court of Requests within the meaning of Act VII. 1841, Section VI.

VII. All proceedings commenced in any of the said Courts, before the time when the constitution and practice of such Court be altered under this Act, may be continued, executed, and enforced against all persons liable thereunto, in the same manner as if they had been according to this Act: and each of the said Courts shall be empowered in any case of doubt as to the proper manner of continuing, executing, or enforcing any such proceedings, to make such orders thereon as shall appear to the Court to be necessary for giving full effect to this enactment.

VIII. The Governor in Council shall appoint as many persons as are necessary not exceeding three to be Judges of the Court, one of whom shall be a Barrister at Law, or Advocate of one of the Supreme Courts of India, or of the Court of Session in Scotland.

IX. No Judge appointed under this Act shall, during his

continuance as such Judge, practise as an Advocate, Attorney, or Vakeel in any of the Queen's Courts, or in any Court of the East India Company, or trade, or traffic for his own benefit, or for the benefit of any other person, or be the partner of any person so practising, trading, or trafficking.

X. The Governor General of India in Council may remove any such Judge on the application of the Governor in Council.

XI. Any Judge or Judges of the Supreme Court of Judicature, who shall consent to aid in the execution of this Act, may exercise all the powers of a Judge appointed under this Act, and suits may be tried by him sitting in the Supreme Court under this Act, in like manner as if he were a Judge of the Court of Small Causes, and no appointment of a Judge under this Act shall be made, while it appears to the Governor in Council that the whole business of the Court can be transacted by the Judges of the Supreme Court so consenting to act.

XII. The duties herein directed to be performed by the Clerk and Bailiffs respectively of the Court of Small Causes, shall be performed in such cases as are tried by a Judge of the Supreme Court, by such Minsterial Officers of the Supreme Court as shall be, from time to time, appointed by the said Judge of the Supreme Court for that purpose, and the persons so appointed shall have all the powers and protections by this Act given to the Clerk and Bailiffs of the Court of Small Causes respectively, and shall receive such remuneration for their services out of the fees received in the causes tried by a Judge of the Supreme Court as he shall deem reasonable, and the residue shall form part of the general fund of the Court of Small Causes.

XIII. There shall be a Clerk for every Court holden under this Act, whom the Judges of the Court shall appoint, subject to the approval of the Governor in Council, and may remove, subject to the like approval: if necessary, additional Clerks may be appointed with the sanction of the Governor in Council.

XIV. The Clerk of each Court shall issue all summonses, warrants, precepts, and writs of execution, and keep an account of all proceedings of the Court, and shall take charge of, and keep, an account of all Court fees, and fines payable or paid into Court, and of all monies paid into, and out of Court, and shall

enter an account of all such fees, fines, and monies in a book belonging to the Court, to be kept by him for that purpose, and shall monthly, or at such other times as shall be directed by the Governor in Council, submit his accounts to be audited or settled in such manner as the Governor in Council, from time to time, shall direct.

XV. The Judges of every such Court shall, from time to time, appoint a sufficient number of persons to be Bailiffs of the Court, not exceeding the number, from time to time, allowed by the Governor in Council, and may at their pleasure suspend or dismiss any Bailiff so appointed.

XVI. The Bailiffs shall attend every sitting of the Court, for such time as shall be required by the Judges, and shall serve all the summonses and orders, and execute all the warrants, precepts and writs, issued out of the Court; and shall, in the execution of their duties, conform to all such general rules as shall be, from time to time, made for regulating the proceedings of the Court.

XVII. Every Clerk, or other Officer of any such Court, who shall, by himself or by any partner, or in any way, directly or indirectly, be concerned or act as Attorney, or Vakeel, or be concerned in any trade or profession on his own account, or for any other person, shall forfeit and pay the sum of Five Hundred Rupees to any person who shall sue for the same in the Supreme Court by action of debt or on the case.

XVIII. The Clerk and Bailiffs shall give security for such sum, and in such manner and form, as the Governor in Council, from time to time, shall order, for the due performance of their several offices, and for the due accounting for and payment of all monies received by them under this Act, or which they may become liable to pay for any misbehaviour in their office.

XIX. There shall be payable in the Courts holden under this Act the fees set forth in the annexed Schedule beside the sum of Two Annas in the Rupee on the amount of the sum claimed, which fees shall be paid over to an account to be termed the General Fund of the Court.

XX. The ratable fee or commission shall be paid by the plaintiff before the summons issues; the other fees on every proceeding shall be paid in the first instance by the plaintiff or

party on whose behalf such proceeding is to be had, on or before such proceeding: if the plaintiff recovers a less sum than he has demanded, the defendant shall not, in any case, be required to repay to him more than the fees and commission calculated upon the sum recovered. If the case is settled by agreement of the parties, before hearing, half the amount of the fees paid up to that time shall be returned to the parties by whom they have been severally paid. The Judges of the said Court may at their discretion grant summons to poor plaintiffs without deposit, or with a partial deposit of fees and commission, and also may remit costs wholly or partially to poor suitors.

XXI. The Governor in Council may, at any time, lessen the amount of the fees to be taken in the Courts holden under this Act in such manner as to him shall seem fit, and may again increase such fees, so that the scale of fees given in this Act be not in any case surpassed.

XXII. The Governor in Council shall, from time to time, make such rules as to him shall seem meet for securing the balances, and other sums of money in the hands of any Officers of every Court holden under this Act, and for the due accounting for and application of all such balances and other sums of money.

XXIII. The Courts shall sit daily, except on Sundays, Christmas-day and Good Friday, and on Native or other Holidays, which the Governor in Council shall direct the Court to observe; and each of the Judges may sit apart from the others or with either of them, at the same time or at different times; and any one or two of the said Judges so sitting apart shall have all the judicial authority, which is herein given to all the Judges.

XXIV. A Seal shall be made for every Court holden under this Act, under the direction of the Governor in Council, and all summonses and other process issuing out of the Court shall be sealed or stamped with the Seal of the Court; and every person, who shall forge the seal or any process of the Court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons, or other process of the said Court, knowing the same to be false,

or who shall act, or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

XXV. All suits, where the debt or damage claimed or value of the property in dispute is not more than Five Hundred Rupees, whether on balance of account or otherwise, may be brought in the Court of Small Causes; and all such suits brought in the said Court shall be heard and determined in a summary way, and every defence which would be deemed good in the Supreme Court sitting as a Court of Equity shall be a good bar to any legal demand in the Court of Small Causes. Provided always, that the Court shall not have jurisdiction in any matter concerning the revenue, or concerning any Act ordered or done by the Governor, or Governor General, or any Member of the Council of India, or of any Presidency, in his public capacity, or done by any person by order of the Governor General or Governor in Council, or concerning any act ordered or done by any Judge or Judicial Officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court, or any such Judge or Judicial Officer, or in any suit for libel or slander.

XXVI. On the application of any person desirous to bring a suit under this Act, the Clerk of the Court shall issue, under the seal of the Court a summons which shall be numbered, and shall set forth the names of the plaintiff and defendant, the cause of action with such particulars as shall be, from time to time, directed by the Rules of the Court, and the amount sued for, and shall be served on the defendant, so many days before the day on which the Court shall be holden at which the cause is to be tried as shall be directed by the rules for regulating the practice of the Court; and delivery of such summons to the defendant, or in such other manner as shall be specified in the rules of practice, shall be deemed good service; and no misnomer or inaccurate description of any person or place in any such summons shall vitiate the same, if the person or place be therein described so as to be commonly known.

XXVII. No misstatement of the cause of action in the summons issued under this Act shall vitiate the same, and the Judges of the Court may, in their discretion, rectify such

misstatement as soon as discovered, and alter the record accordingly; and if the defendant, or one of the defendants be present in Court at the time of such discovery, the hearing of the cause after the record shall have been so altered, shall be proceeded with as if no such misstatement had happened, but in the absence of the defendant or of all the defendants a new summons of the same number and date as the original summons shall be issued with the altered statement of the cause of action.

XXVIII. All persons shall be deemed within the jurisdiction of the Court, who dwell or carry on their business or work for gain within the district of the Court at the time of bringing the action, or who did so dwell or carry on their business or work therein at the time when the cause of action arose, or within six months before the time of bringing the action for causes of action which arose within the same time.

XXIX. Any summons or other process of any of the said Courts, service of which is needed out of the district of the Court, may be exhibited in any Court of Law, or before any Magistrate, and shall be thereupon endorsed by the Magistrate or Judge of such Court; and, when so endorsed, may be served in like manner as any order or process from such Court or Magistrate; and such service shall be as valid as if the same had been made by the Bailiff of the Court out of which such summons or other process shall have issued within the jurisdiction of the Court for which he acts.

XXX. Service of any summons or other process of the Court, which shall require to be served out of the district of the Court, may be proved by affidavit, or solemn affirmation, purporting to be sworn or made before any Judge or Magistrate; and, in every case of the unavoidable absence of the Bailiff by whom any summons or other process of the Court has been served, the service of such summons or other process may be proved, if the Judges think fit, in the same manner as a summons served out of the district of the Court.

XXXI. Any Minor may prosecute a suit in any Court holden under this Act for any sum of money not greater than Five Hundred Rupees, which may be due to him for wages or piece-work, or for work as a servant, in the same manner as if he were of full age.

XXXII. The jurisdiction of the Court shall extend to the recovery of any demand, not exceeding the sum of Five Hundred Rupees, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of a distributive share under an intestacy, or of any legacy under a will.

XXXIII. Any Executor or Administrator may sue and be sued in any Court holden under this Act, in like manner as if he were a party in his own right; and judgment and execution shall be such as in the like case would be given or issued in the Supreme Court in the like case: but no Executor or Administrator shall be summoned in that capacity within six months after the death of the person, whose Executor or Administrator he is.

XXXIV. A plaintiff shall not be allowed to divide any cause of action, for the sake of bringing two or more suits in any of the said Courts: but any plaintiff, having cause of action for more than Five Hundred Rupees, may abandon the excess, which shall be entered in the record, and stated in the summons, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding Five Hundred Rupees; and the judgment of the Court shall be in full discharge of all demands in respect of such cause of action; and entry of the judgment shall be made accordingly.

XXXV. The Governor General and Members of the Supreme Council of India, the Governors and Members of Council of the Presidencies of Fort William in Bengal, Fort St. George and Bombay respectively, and the Chief Justices and Judges of the several Supreme Courts established therein by Royal Charter, shall not be liable to arrest or imprisonment by process issuing out of any Court holden under this Act, and no writ or process shall be sued out of the said Court against any of the persons privileged by Act I. 1844, or Act XVIII. 1848, without the consent of the Governor in Council.

XXXVI. Where any plaintiff shall have any demand recoverable under this Act, whether founded on contract or wrong, against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with process, and judgment may be obtained and execution issued against the person or persons so served, notwithstanding that others jointly

liable, may not have been served or sued, or may not be within the jurisdiction of the Court; and every such person against whom judgment shall have been obtained under this Act, and who shall have satisfied such judgment, shall be entitled to demand and recover in the Court, holden under this Act, contribution from any other person jointly liable with him; and in all cases of misjoinder of defendants, the Judges may order the suit to proceed against such of the defendants only against whom cause of action appears, and may give judgment against them only; giving also judgment for costs for the defendants improperly joined.

XXXVII. The Judges of the Court shall be empowered to determine all questions as well of fact as of law or equity, as administered in the Supreme Court, in all cases which they have authority to try.

XXXVIII. On the day in that behalf named in the summons, the plaintiff shall appear, and thereupon the defendant shall be required to appear to answer; and on answer being made in Court, the Judges shall proceed in a summary way to try the cause, and give judgment, without further pleading or formal joinder of issue.

XXXIX. A defendant, having any cause of action against the plaintiff, whether or not the same exceeds Five Hundred Rupees, shall be entitled to set the same against the plaintiff's demand, and if judgment is given in such case for the plaintiff, shall be entitled to sue the plaintiff for the balance only of his original demand, after deducting the amount of debt or damages and costs recovered against him under this Act.

XL. The Judge may, in any case, with the consent of both parties to the suit, order the same, with or without other matters within the jurisdiction of the Court in dispute between such parties, to be referred to arbitration, to such person or persons, and in such manner, and on such terms as they shall think reasonable and just; and such reference shall not be revocable by either party, except by consent of the Judges; and the award of the arbitrator or arbitrators or umpire shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents, as if given by the Judges; provided, that the Judges may, if they think fit, on application to them at the first

Court held after the expiration of one week, after the entry of such award, set aside any such award, or may, with the consent of both parties, revoke the reference, or order another reference to be made in the manner aforesaid.

XLI. The Judges of each Court, holden under this Act, subject to the approval of the Judges of the Supreme Court, shall have power to make and issue all the general rules for regulating the practice and proceedings of the Court, and also to frame forms for every proceeding in the Court for which they shall think it necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Clerk of the Court, and, from time to time, to alter any such rule or form; and the rules so made and the forms so framed, shall be observed and used in the Court of that Presidency, and shall be sent to Supreme Court for approval, but shall be of force until disapproved; and in any case, not expressly provided for herein, or by the said rules, the general principles of practice, in the Supreme Court may be adopted and applied, at the discretion of the Judges, to actions and proceedings in their Court.

XLII. If, upon the day of the return of any summons, or at any continuation or adjournment of the said Court, or of the cause for which the said summons shall have been issued, the plaintiff shall not appear, the cause shall be struck out; and if he shall appear, but shall not make proof of his demand to the satisfaction of the Court, the Judges may nonsuit the plaintiff or give Judgment for the defendant; and, in either case, where the defendant shall appear and shall not admit the demand, may award to the defendant, by way of costs and satisfaction for his trouble and attendance, such sum as they, in their discretion, shall think fit; and such sum shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the same Court can be recovered: provided always, that if the plaintiff shall not appear when called upon, and the defendant, or some one duly authorized on his behalf, shall appear, and admit the cause of action to the full amount claimed, and pay the fees payable in the first instance by the plaintiff, the Court, if it shall think fit, may proceed to give judgment, as if the plaintiff had appeared.

XLIII. If on the day so named in the summons, or at any

continuation or adjournment of the Court, or cause in which the summons was issued, the defendant shall not appear or sufficiently excuse his absence, or shall neglect to answer when called in Court, the Judges, upon due proof of service of the summons, may issue a writ of attachment to compel the appearance of the defendant; or, in their discretion, may proceed to the hearing on trial of the cause on the part of the plaintiff only; and the judgment thereupon shall be as valid as if both parties had attended; provided always, that the Judges in any such case, at the same or any subsequent Court, may set aside any judgment so given in the absence of the defendant, and the execution thereupon; and may grant new trial of the cause upon such terms, as to payment of costs, giving security for debt or costs, or otherwise, as they think fit, on sufficient cause shown to them for that purpose.

XLIV. The Judges may, in any case, make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and also may, from time to time, adjourn any Court or the hearing or further hearing of any cause, in such manner as to them may seem fit.

XLV. The defendant in any action brought under this Act for the recovery of money, whether for debt or damages within such time as shall be directed by the rules for regulating the practice of the Court, may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, with the costs incurred by the plaintiff up to the time of such payment; and the said sum of money shall be paid to the plaintiff; but, if he shall elect to proceed, and, if the plaintiff shall recover no further sum in the action than shall have been so paid into Court, the plaintiff shall pay to the defendant the costs incurred by him in the said action after such payment; and such costs shall be settled by the Court, and an order shall thereupon be made by the Court for the payment of such costs by the plaintiff.

XLVI. On the hearing or trial of any action or any other proceeding under this Act the parties thereto, their wives, and all other persons, may be examined, on behalf of either the plaintiff or defendant, subject nevertheless to the Acts and Regulations in force, with respect to the examination of women of a rank and situation in life, which, according to the customs

of the country, would render it improper to compel them to appear in a Court of Justice.

XLVII. Every person shall be examined on oath, or when exempt by law from taking an oath in any Court of Justice, on solemn affirmation, and every person, who, in any examination upon oath or solemn affirmation, under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

XLVIII. Either of the parties to the suit or any other proceeding under this Act may obtain, at the office of the Clerk of the Court, summonses to witnesses, with or without a clause requiring the production of books, deeds, papers and writings in their possession or control, and in any such summons any number of names may be inserted.

XLIX. Every person, on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court, and who shall refuse or neglect, without sufficient cause, to appear, or to produce any books, papers or writings required by such summons to be produced, and also every person present in Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding One Hundred Rupees, as the Judges shall set on him; and the whole or any part of such fine, in the discretion of the Judges, after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

L. The Judges of any Court established under this Act, in all suits where the debt or demand exceeds the sum of Thirty Rupees, upon proof before them, that any defendant against whom a summons has been taken out, conceals himself from, or otherwise evades process of the Court, or is disposing of his property and effects with intent to defraud the plaintiff, or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of the Court, may issue a warrant for the apprehension of such person, and may commit him to gaol until he shall find security for his appearance in the said Court from time to time, until judgment shall be pronounced in the suit

commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

LI. Payment of any fine imposed by any Court under the authority of this Act may be enforced upon the order of the Judges, in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

LII. All the costs of any action or proceeding in the Court not herein otherwise provided for, shall be paid by or apportioned between the parties, in such manner as the Judges shall think fit; and, in default of any special direction, shall abide the event of the action; and execution may issue for the recovery of any such costs, in like manner as for any debt adjudged in the said Court.

LIII. Every order and judgment of any Court holden under this Act, except as herein provided, shall be final and conclusive between the parties; but the Judges shall have power to nonsuit the plaintiff, in every case in which satisfactory proof shall not be given to them, entitling either the plaintiff or defendant to the judgment of the Court; and shall also in every case whatever have the power, if they shall think fit, to order a new trial to be had, upon such terms as they shall think reasonable, and in the meantime to stay the proceedings.

LIV. No cause commenced in any Court, holden under this Act, shall be removed from the said Court into the Supreme Court by any writ or process, unless the debt or damage or value of the property claimed exceeds One Hundred Rupees, and then only by leave of a Judge of the said Supreme Court on proof to his satisfaction that some question of law or equity is likely to arise therein, which, by reason either of its difficulty, novelty or general importance, or of some erroneous course of decision on the same point in the Court of Small Causes may appear to him fit to be tried in the Supreme Court, and upon such terms as to payment of costs, giving security for debt or costs, or otherwise, as he shall think fit.

LV. The Judges of the Court of Small Causes may, in their discretion, reserve any question of law or equity on which they entertain doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the Judges of the Su-

preme Court, and shall give judgment contingent upon the opinion of the said Supreme Court on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together, and shall differ in opinion, the question on which they differ shall be so referred.

LVI. The Judges may make orders concerning the time or times, and by what instalments, any debt or damages or costs, for which judgment shall be obtained in the said Court, shall be paid; and all such monies shall be paid into Court, unless the Judges shall otherwise order.

LVII. If there be cross-judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum; and satisfaction for the remainder shall be entered, as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

LVIII. Whenever the Court shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the goods and chattels of the person against whom such order is made without further notice or order; and the Clerk of the said Court, at the request of the person prosecuting such order shall issue under the seal of the Court a writ of execution to one of the Bailiffs of the Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied, by distress and sale of the goods and chattels of such person such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

LIX. If the Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for

such portion thereof as the Court shall order, either at the time of making the original order, or at any subsequent time under the seal of the Court.

LX. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court shall be empowered, by virtue thereof, to take and convey him to any prison, appointed by the Governor in Council to be the prison of the Court, there to remain for such term as shall be directed by the warrant, not longer than six calendar months, or until he shall sooner perform the order of the Court.

LXI. No person shall be imprisoned twice under the same judgment, or shall execution against the body and goods issue at the same time under the same judgment.

LXII. Every person suing out a warrant of execution against the body of any other person under this Act shall deposit with the Clerk of the Court, at the time of the issue of the warrant, diet money for one week, after the rate of one anna and a half for each day, which shall be paid by the Clerk to the Keeper of the Prison at the time of the execution of the warrant.

LXIII. Notice of the execution of every such warrant shall be forthwith given to the person at whose suit it issued, who shall thereupon deposit with the Keeper of the Prison, diet money for the remainder of the month in which the warrant is executed, after the same daily rate, and shall continue thereafter to deposit monthly with the said Keeper, in advance, diet money at the same daily rate, for each month which the debtor is liable to be kept in prison at his suit.

LXIV. The diet money shall be employed for the subsistence of the prisoner; and if, by default of the detaining creditor, such diet money is not paid, the prisoner shall be entitled to his discharge by order of the Court.

LXV. All diet money, which shall be spent in providing subsistence for any prisoner, shall be costs in the cause, and all diet money, which shall not be so spent, shall be repaid to the creditor advancing the same.

LXVI. Whenever any prisoner shall offer good and reasonable security for payment of any debt or damage and costs, either in full or by instalments as the Court shall think reasonable, the Court may order him to be discharged on giving such security.

LXVII. Upon payment of the debt or damage and costs in full, the prisoner shall be entitled to be forthwith discharged.

LXVIII. If the debt or damage and costs are not paid, the imprisonment shall not extinguish the liability to pay the same; but all property then belonging to or afterwards acquired by the prisoner shall be liable to be taken in execution after his discharge from prison for satisfaction thereof, or of so much thereof as is not paid, including the diet money actually expended for subsistence of the prisoner.

LXIX. Every Bailiff executing any process of execution issuing out of the said Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person, (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade,) and may also seize and take any money or bank-notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

LXX. The Bailiff shall forthwith deliver any cheques, bills of exchange, promissory notes, bonds, specialties or other securities for money, which shall have been so seized or taken as aforesaid, to the Clerk or other person appointed by the Judges to receive the same, who shall hold them as a security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured, or made payable thereby, when the time of payment thereof, shall have arrived.

LXXI. If it shall, at any time, appear to the satisfaction of the Court that any defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof ordered to be paid as aforesaid, the Judges, in their discretion, may suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as they shall think fit, and so, from time to time, until it shall appear by the like proof as aforesaid that such temporary cause of disability has ceased.

LXXII. No sale of any goods, which shall be taken in execution as aforesaid shall be made, until after the end of five days at least next following the day on which such goods have been so taken, unless such goods be of a perishable nature, or upon the request, in writing of the party whose goods have been taken.

LXXIII. Until such sale, the goods shall be deposited by the Bailiff by whom they were taken in some fit place, or they may remain in the custody of a fit person approved by the Judges to be put in possession by the Bailiff.

LXXIV. The Judges, from time to time, as they shall think proper, may appoint such and so many persons for keeping possession, and so many of their Bailiffs or other fit persons to be sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels or effects taken in execution under this Act, as shall appear to them to be necessary, and may direct security to be taken from each of them, for such sum and in such manner as they shall think fit, for the faithful performance of their duties, without injury or oppression; and the Judges may dismiss any person, broker or appraiser so appointed

LXXV. No goods taken in execution under this Act shall be sold for the purpose of satisfying the warrant of execution; except by one of the brokers or appraisers so appointed.

LXXVI. The costs to be demanded or taken for such appraisement and sale, shall be One Anna in the Rupee on the produce of the goods sold; and the Judges may apply the sum so raised as costs towards payment of the contingent charges and remuneration of the said brokers and appraisers, in such manner as shall be approved by the Governor in Council.

LXXVII. The Clerk of the Court shall keep an account of all sums received upon such sales, distinguishing the amount paid to the party entitled to the benefit of the execution, and the amount levied and retained as costs, and also of all sums allowed to the brokers and appraisers upon such sales.

LXXVIII. Whenever any defendant against whom judgment shall have been given in the Court of Small Causes, shall go before execution thereof out of the jurisdiction of the Court, the Judge of any Zillah or Town where he shall be found, upon receiving from the plaintiff either in person or by vakeel, an application in writing setting forth these facts, with a duly

authenticated copy of the judgment of the Court, shall execute the said judgment in the manner prescribed by law for execution of his own decrees; unless the defendant shall allege any reasonable cause, why the judgment should not be executed, and shall give security to such amount as the Judge of such Zillah or Town shall deem reasonable, that he will, within such time as shall be allowed him for that purpose, either satisfy the judgment or produce a duly authenticated copy of an order of the Judges of the Court of Small Causes, discharging their former judgment.

LXXIX. No judgment or execution shall be stayed, delayed or reversed upon or by any writ of error or *supersedeas* thereon, to be sued for the reversing of any judgment given in any Court holden under the provisions of this Act, unless the amount recovered exceeds One Hundred Rupees, and then only after the person suing out such writ shall become bound with two sufficient sureties to be approved by the Clerk of the Court, in treble the sum adjudged to be recovered in the former judgment, to prosecute the said writ with effect, and also to satisfy and pay (if the writ be not prosecuted, or if the judgment be affirmed), the debt or damages and costs adjudged, and all costs and damages to be awarded for the delay of execution.

LXXX. Upon every warrant of execution issued against the goods and chattels of any person, the Clerk of the Court shall cause to be stated the sum of money and costs adjudged with the sum paid for such warrant; and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk of the Court, or to the Bailiff holding the warrant of execution such sum of money and costs, as aforesaid, or such part thereof as the person entitled thereto shall agree to accept in full of his debt or damages and costs, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty.

LXXXI. The Clerk of every Court holden under this Act shall cause a record of all summonses, and of all orders, and of all judgments and executions, and returns thereto, and of all fines, and of all other proceedings of the Court, to be fairly entered, from time to time, in a book or books belonging to the Court, which shall be kept at the Office of the Court; and shall be duly

authenticated by one or more of the Judges; and such entries in the said book or books or a copy thereof bearing the seal of the Court, and purporting to be signed and certified as a true copy by the Clerk of the Court, shall be admitted in all Courts and places as evidence of such entries, and of the proceeding referred to by such entry or entries, and of the regularity of such proceeding, without any further proof.

LXXXII. The Clerk of every such Court shall, in the month of *March*, in each year, make out a correct list of all sums of money belonging to suitors in the Court, which shall have been paid into Court, and which shall have remained unclaimed for five years before the first day of the month of *January* then last past, specifying the names of the parties for whom or on whose account the same were so paid into Court; and a copy of such list shall be put up and remain during Court hours in some conspicuous part of the Court House, and at all times in the Clerk's Office; and all sums of money which shall have been paid into any such Court, to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years, before the passing of this Act, and which are now in the hands of any Commissioner or Officer of such Court, or otherwise held in trust for such suitors, and all further sums of money, which shall hereafter be paid into such Court to the use of any suitor or suitors thereof shall, if unclaimed for the period of six years after the same shall have been so paid into Court, be applicable as part of the fees receivable on account of the Court, and shall be carried to the same account; and no person shall be entitled to claim any sum which shall have remained unclaimed for six years; but no time during which the person entitled to claim such sum shall have been an infant or married woman or of unsound mind, or out of the Territories under the Government of the East India Company, shall be taken into account in estimating the said period of six years.

LXXXIII. If any person shall wilfully insult any Judge, Clerk or Officer of the said Court, for the time being, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of the Court, or otherwise misbehave in Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of the

Judges to take such offender into custody, and detain him until the rising of the Court; and the Judges shall be empowered, if they shall think fit, by a warrant under their hands, and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time, not exceeding seven days, or to impose upon any such offender a fine, not exceeding Fifty Rupees for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act may cause the offender to be indicted in the Supreme Court, if the offence be an indictable misdemeanour.

LXXXIV. If any Officer or Bailiff of any Court holden under this Act shall be assulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested, or goods levied under process of the Court, the person so offending shall be liable to a fine, not exceeding One Hundred Rupees, to be recovered by order of the Court, or before a Magistrate as hereinafter provided; and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into Custody, (with or without warrant,) and bring him before such Court, or Magistrate accordingly.

LXXXV. If any Bailiff of the said Court, who shall be employed to execute any warrant of the Court, shall, by neglect, or connivance, or ommission, lose an opportunity of executing such warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance or omission, (and the fact alleged being proved to the satisfaction of the Court,) the Judges shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the Bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

LXXXVI. If any Clerk, Bailiff or Officer of the Court, acting under colour or pretence of the process of the said Court

shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Judges may inquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just; and also, if they shall think fit, may impose such fine upon the Clerk, Bailiff or Officer, not exceeding One Hundred Rupees for each offence, as they shall deem adequate; and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

LXXXVII. Every Clerk, Bailiff or other Officer employed in putting this Act or any of the powers thereof in execution, who shall wilfully and corruptly exact, take or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever, relative to putting this Act into execution, shall, upon proof thereof before the said Court, and in the case of a Clerk, on confirmation of the finding of the Court by the Governor in Council, be for ever incapable of serving, or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

LXXXVIII. If any claim shall be made to, or in respect of, any goods or chattels taken in execution under the process of any Court holden under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of the Court, upon application of the Officer charged with the execution of such process, as well before as after any action brought against such Officer, may issue a summons calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action, which shall have been brought in the Supreme Court in respect of such claim, shall be stayed, and any Judge of the Supreme Court on proof of the issue of such summons,

and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the Court of Small Causes, and the Judges of the Court of Small Causes shall adjudicate upon such claim and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

LXXXIX. The powers of Act VII. 1847 to regulate distresses for small rents in Calcutta, shall be extended to the recovery of all arrears of rent not exceeding Five Hundred Rupees, and the Judges of every Court of Small Causes under this Act shall be empowered to exercise within their several jurisdictions the extended powers of the said Act; and the said Act shall be construed as if instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Court of Small Causes under this Act instead of the Commissioners of the Court therein mentioned, and the amount of Five Hundred Rupees instead of One Hundred Rupees, and the forms contained in the Schedule annexed to the said Act shall be altered accordingly, and shall refer to this Act instead of Act VII. 1847.

XC. The affidavit of arrear required by the said Act No. VII. 1847 may, in every case, be made either by the person entitled to such arrear or by his or her lawfully constituted attorney, and a warrant of distress may issue on such affidavit.

XCI. Where any person shall hold or occupy any house, land or tenement, of which the value or the rent payable in respect thereof does not exceed the rate of Five Hundred Rupees by the year, without leave of the owner, or under a lease or agreement which is ended, or duly determined by a legal notice to quit, and such tenant, or, if such tenant do not actually occupy the premises, or occupy only a part thereof, any person by whom the same or any part thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up possession of the premises, or of such part thereof respectively, the owner or his agent may take out a summons from the Court directed to

such tenant or occupier, to show by what title he claims to hold or occupy the premises or part thereof.

XCII. If the tenant or occupier shall not thereupon appear at the time and place appointed, and show cause to the contrary, and shall still neglect or refuse to deliver up possession of the premises, or of such part thereof of which he is then in possession to the said owner or his agent, such owner or agent may give to the Court proof of the holding, and of the end or other determination of the tenancy, if any had existed, with the time or manner thereof, and of the right by which he claims the possession.

XCIII. Upon proof of due service of the summons, and of the neglect or refusal of the tenant or occupier, as the case may be, the Judges may issue a warrant under the seal of the Court, to any Bailiff of the Court requiring and authorizing him within a period to be therein named not less than seven, or more than ten clear days from the date of such warrant, to give possession of the premises to such owner or agent, and such warrant shall be a sufficient warrant to the said Bailiff to enter upon the premises with such assistants as he shall deem necessary, and to give possession accordingly; Provided always, that entry upon any such warrant shall not be made on a *Sunday, Good Friday or Christmas-day*, or any other day observed by the Court as a Holiday, or at any time except between the hours of six in the morning and six in the afternoon: Provided also, that nothing herein contained shall be deemed to protect any person by whom any such warrant shall be sued out of the Court of Small Causes from any action which may be brought against him by any such tenant or occupier for such entry and taking possession, where such person had not, at the time of suing out the same as aforesaid, lawful right to the possession of the same premises.

XCIV. Such summons, as last aforesaid, may be served either personally or by leave of the Court, upon proof that the tenant or occupier is not to be found within the jurisdiction of the Court by leaving the same with some person being in, and apparently residing at the place of abode of the person or persons so holding over as aforesaid; or if the place of abode of such person or persons shall either not be known or admission thereto cannot be

obtained for serving such summons, by posting the said summons on some conspicuous part of the premises so held over.

XCV. No action or prosecution shall be maintainable against the Judges or against the Clerk of the Court, by whom such warrant as aforesaid shall have been issued, or against any Bailiff or other person by whom such warrant may be executed, or summons affixed, for issuing such warrant, or executing the same respectively, or affixing such summons, by reason that the person by whom the same shall be sued out had not lawful right to the possession of the premises.

XCVI. Where the owner, at the time of applying for such warrant as aforesaid, had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said owner nor his agent, nor any other person acting in his behalf, shall be deemed to be a trepasser, by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act, but the party aggrieved may, if he think fit, bring an action on the case, for such irregularity or informality, in which the damage alleged to be sustained thereby, shall be specially laid, and may recover full satisfaction for such special damage with costs of suit: Provided that, if the special damage so laid be not proved, the defendant shall be entitled to a verdict, and that, if proved, but assessed at any sum, not exceeding Ten Rupees, the plaintiff shall recover no more costs than damages, unless the Judge, before whom the trial shall have been holden, shall certify that in his opinion full costs ought to be allowed.

XCVII. In every case in which the person, by whom any such warrant shall be sued out of the Court of Small Causes, had not, at the time of suing out the same, lawful right to the possession of the premises, the suing out of any such warrant, as last aforesaid, shall be deemed a trespass by him against the tenant or occupier of the premises, although no entry shall be made by virtue of the warrant; and in case any such tenant or occupier will become bound with two sufficient sureties, to be approved by the Clerk of the Court, in such sum as to the Judges shall seem reasonable, regard being had to the value of the premises and to the probable cost of such action, to sue the person by whom such warrant was sued out with effect and without delay, and to pay all the costs of the proceeding in such action, in case

a verdict shall pass for the defendant, or the plaintiff shall discontinue or not prosecute his action, or become nonsuit therein, execution upon the warrant shall be stayed until judgment shall have been given in such action of trespass; and, if upon the trial of such action of trespass, judgment be given for the plaintiff, such judgment shall supersede the said warrant.

XCVIII. Recovery of the possession of any such house, land or tenement shall be no bar to the institution of a regular suit, for trying the title thereunto, which may be brought in the Supreme Court, as if this Act had not been passed.

XCIX. Every bond given on the removal of any action out of the Court of Small Causes, or upon staying, delaying or reversing any judgment or execution awarded therein, or the execution of any such warrant of possession as aforesaid, or on moving for a new trial, or to set aside a verdict, judgment or nonsuit, shall be made to the other party to the action, and shall be approved by the Judges and attested under the seal of the Court; and if the bond so taken be forfeited, or if upon the proceeding for securing which such bond was given, the Judge, before whom such proceeding shall be had, shall not certify upon the record in Court, that the condition of the bond hath been fulfilled, the party to whom the bond shall have been so made may bring an action of debt and recover thereon: Provided always, that the Court in which such action as last aforesaid shall be brought may, by a rule of Court, give such relief to the parties liable upon such bond as may appear to him reasonable, and such rule shall have the nature and effect of a defeasance to such bond.

C. All actions and proceedings, which before the passing of this Act, might have been brought in the Supreme Court, where any Officer of the Court of Small Causes shall be a party, except in respect of any claim to any goods and chattels taken in execution of the process of the Court, or the proceeds or value thereof, may be brought and determined in the Supreme Court, at the election of the party suing or proceeding, as if this Act had not been passed.

CI. If any action shall be commenced after the passing of this Act in the Supreme Court, for any cause other than those lastly hereinbefore specified, for which a summons might have been taken out from a Court holden under this Act, and a verdict shall be found for the plaintiff for a sum less than Five Hundred

Rupees, if the said action is founded on contract, or less than One Hundred Rupees, if it is founded on wrong, the plaintiff shall have judgment to recover such sum only, and no costs; and if a verdict shall not be found for the plaintiff the defendant shall be entitled to his costs as between Attorney and Client, unless in either case the Judge, who shall try the cause, shall certify on the back of the record that, by reason of the difficulty; novelty or general importance of the case, or of some erroneous course of decision on like cases in the Court of Small Causes, the action was fit to be brought in the Supreme Court.

CII. If any person shall bring any suit in the Supreme Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court holden under this Act, under colour or pretence of the process of the said Court, and upon the trial of the action, no greater damages shall be found for the plaintiff than the sum of Five Hundred Rupees, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the Record, that the action was fit to be brought in the Supreme Court.

CIII. All penalties, fines and forfeitures by this Act, inflicted or authorized to be imposed, (the manner of recovering and applying whereof is not hereby otherwise particularly directed), upon proof before any Justice of the Peace or Magistrate having jurisdiction where the offender shall reside or be, or the offence shall be committed, either by the confession of the party offending or by the oath or affirmation of any credible witness, shall be levied, with the costs attending the summons and conviction, by distress and sale of the goods and chattels of the party offending, by warrant under the hand of any such Justice or Magistrate, and the overplus (if any) after such penalties, fines and forfeitures and the charges of such distress and sale are deducted, shall be returned, upon demand, unto the owner of such goods and chattels.

CIV. If any such penalties, fines and forfeitures respectively, shall not be paid forthwith upon conviction, it shall be lawful for such Justice or Magistrate to order the offender so convicted to be detained in safe custody until return can conveniently be made to such warrant of distress; unless such offender shall give sufficient security to the satisfaction of such Justice or Magistrate for his appearance before him on such day as shall

be appointed for the return of such warrant of distress, such day not being more than eight days from the time of taking any such security, which security the Justice or Magistrate shall be empowered to take by way of recognizance or otherwise, as to him shall seem fit.

CV. If upon return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of the Justice or Magistrate either by confession of the offender or otherwise, that he hath not within the jurisdiction of such Justice or Magistrate, sufficient goods and chattels, whereon to levy all such penalties, forfeitures, costs and charges, the Justice or Magistrate may, at his discretion, without issuing any warrant of distress, commit the offender to the Common Gaol or House of Correction, for any time not exceeding three calendar months, unless such penalties, forfeitures and fines, and all reasonable charges attending the recovery thereof, shall be sooner paid and satisfied.

CVI. The monies arising from any such penalties, forfeitures and fines as aforesaid when paid and levied, shall (if not by this Act directed to be otherwise applied) be, from time to time, paid to the Clerk of the Court, and shall be applied in like manner as the fees thereof.

CVII. In all cases in which by this Act any penalty or forfeiture is made recoverable before a Justice or Magistrate, he may summon before him the party complained against, and on such summons may hear and determine the matter of such complaint; and, on proof of the offence may convict the offender and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same, although no information in writing shall have been exhibited before him; and all such proceedings by summons without information in writing shall be as valid and effectual to all intents and purposes, as if an information in writing had been exhibited.

CVIII. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following: (that is to say,) "Be it remembered that on this day of in the year " A. B. is convicted before a Magistrate "for the . (or before a Judge appointed under Act IX. "1850) of having *(state the offence;)* and I *(or we)* the said

"do adjudge the said to forfeit and pay for the same the "sum of [or to be committed to for the space "of] given under hand ( ) and seal ( ) the day "and year aforesaid."

CIX. No order, verdict or judgment, or other proceeding, made concerning any of the matters aforesaid, shall be quashed or vacated for want of form.

CX. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning, on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

CXI. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought, a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

Schedule of Fees.

Sums not above	Every Summons or Subpœna.		Warrant.	
Rupees.	Rupees.	Annas.	Rupees.	Annas.
10	0	2	0	2
20	0	4	0	4
50	0	8	0	8
100	1	0	1	0
200	1	4	2	0
300	1	8	3	0
400	1	12	4	0
500	2	0	5	0

ADEN.—COMMERCIAL.

ACT No. X. OF 1850.

[*Passed on the* 15*th March*, 1850.

1. *Aden declared a free Port. No customs duties to be payable there.*
2. *Aden not to be within Act* 6, 1848.

An Act to declare Aden a free Port.

Whereas the trade between the Western Coast of India and the Red Sea and places thereunto adjacent will be improved by encouraging the resort of Vessels of all nations to the Port of Aden in Arabia, It is declared and enacted as follows:

I. The Port and settlement of Aden in Arabia, is a free Port and Settlement: and no duty of Customs is payable there on any Ship or other Vessel, or on any Goods lawfully carried by sea or land to or from the said Port and Settlement.

II. The said Port of Aden shall not be taken to be within the provisions of Act VI. 1848.

NAVIGATION LAWS.

ACT No. XI. OF 1850.

[*Passed on the* 15*th March*, 1850.

Amends Act 10, 1841.

1. *Repeals S.* 13, *Act* 10, 1841.
2. *Passes under Act* 10, 1841. *S.* 24, *conferring privileges of a British Ship may be granted to Ships belonging to Native Princes or States, wherever built.*
3. *Ships owned by British Subjects or Native Princes or States, who are respectively entitled to registry or passes under previous laws may be registered, whatever be their rig or tonnage.*
4. *Fees to be paid for certificate of Registry.*
5. *Act to be construed as part of Act* 10, 1841.

An Act to amend Act X. 1841.

For amendment of Act X. 1841, It is enacted as follows:

I. Section XIII. of Act X. 1841, is repealed.

II. The Passes which, under Section XXIV. of the said Act, may be issued for conferring the privileges and advantages of a British Ship, in certain cases, to any ship or vessel built within the dominions of a Native Prince or State in subordinate alliance with, or having subsidiary treaties with the East India Company, may, after the passing of this Act, be issued in the like cases, and

under the same restrictions, to any ship or vessel belonging to any such Native Prince or State, or their subjects, wherever the same may have been built.

III. All ships or vessels, of whatever rig and of whatever tonnage, owned by British Subjects, entitled to registry under Act X. 1841, or owned by such Native Princes or States, or by their subjects entitled to Passes under Act X. 1841, as amended by this Act, employed only in coasting voyages, or between any port of the Continent of India and the Island of Ceylon, may be registered and obtain Passes, and the tonnage may be marked, according to such rules as shall be made from time to time by the Governor or Governor in Council of each Presidency.

IV. The owners of coasting vessels, registered under Section III. of this Act, shall pay for each Certificate of Registry,

For a vessel not exceeding the burthen of four tons, one Rupee.

Exceeding four tons and not exceeding twenty tons, five Rupees.

Exceeding twenty tons and not exceeding eighty tons, seven Rupees.

Exceeding eighty tons, for each ton two annas.

Which fees shall be carried to the credit of the Government of the Presidency in which they are levied.

V. This Act shall be construed with and as part of Act X. 1841.

PUBLIC ACCOUNTANTS.

ACT No. XII. OF 1850.

[*Passed on the 22nd March*, 1850.

1. *Public Accountants to give security for due performance of duties.*

2. *If not regulated by Act, the security to be such as may be required by person appointing the Accountant.*

3. *Defines who shall be deemed a Public Accountant.*

4, 5. *Public Accountant in arrear, his securities may be proceeded against as for land revenue in arrear; and* (5) *all regulations for recovery of land revenue to apply to the case.*

6. *Summary sales of land before this Act, made valid sub modo.*

For avoiding loss by the default of Public Accountants.

For better avoidance of loss through the default of Public Accountants, It is enacted as follows:

I. Every Public Accountant shall give security for the due

discharge of the trusts of his office, and for the due account of all moneys which shall come into his possession or controul, by reason of his office.

II. In default of any Act having special reference to the office of any Public Accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties, (regard being had to the nature of the office,) as shall be required by any rules made or to be made from time to time, by the authority by which each Public Accountant is appointed to his office, subject to the approval of the Governor or Governor in Council of the Presidency or place.

III. Every person is a public Accountant within the meaning of this Act, who, by reason of any office held by him in the service of the East India Company is entrusted with the receipt, custody or controul of any moneys or securities for money, or the management of any lands belonging to the East India Company, or as Official Assignee or Trustee, or as Surberakar, or in any other official capacity, with the receipt, custody or controul of any moneys or securities for money, or the management of any lands belonging to any other person or persons.

IV. The person or persons at the head of the office to which any Public Accountant belongs may proceed against any such Public Accountant and his Sureties, for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land revenue due to Government.

V. All Regulations and Acts now or hereafter to be in force for the recovery of arrears of land revenue due to Government, and for recovery of damages by any person wrongfully proceeded against for any such arrear, shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such Public Accountant.

VI. All sales of Estates, summarily sold before the passing of this Act, in satisfaction of the security bonds of any Public Accountant within the meaning of this Act, shall be deemed as good and valid, and be as liable to be reviewed and annulled, as if such Estates had been sold under authority of this Act, and no further or otherwise.

Repealed by XVII of 1862

BREACHES OF TRUST.

ACT. No. XIII. OF 1850.

[*Passed on the 22nd March*, 1850.

1. *Public Officers entrusted with receipt of money, &c. embezzling the same or fraudulently applying it, &c. to be deemed guilty of stealing.*

2. *Describes the classes of persons who shall be deemed within the foregoing section.*

3. *Repeals* 9 *G.* 4, *C.* 74, *Ss.* 99, 100, 101, 102, 103 *and* 104.

4. *Clerk or Servant guilty of stealing, to be punishable as under this Act.*

5. *Clerk or Servant guilty of embezzling shall be deemed to have stolen.*

6. *Members and Officers of trading Company, Bankers, Merchants, &c. employed as Agents to sell, &c. fraudulently applying proceeds of sale, &c. to be deemed to have feloniously stolen such proceeds.*

7. *Such Agents, &c. of the persons mentioned in last section fraudulently misapplying property to other purposes than those for which their principals held it, to be deemed to have stolen the same.*

8. *Every person having the receipt of chattels, &c. and embezzling, &c. same, in breach of trust, to be deemed to have stolen same.*

9. *Persons convicted of stealing under this Act, liable to transportation for life, or imprisonment, &c. for not exceeding seven years.*

10. *What shall be deemed valuable securities within this Act.*

11. *Any number of offences against this Act, committed within six months of one another, may be included in one Indictment. Deficiency in accounts explained to be evidence of offence.*

12. *How securities or money may be described in the Indictment.*

13. *How the person interested in the property may be described in the Indictment.*

14. *Empowers the Court to amend the Indictment in case of variance.*

15. *Offender under this Act may be tried in place where offence was committed or where he is in custody.*

16. *Punishment of offender not to affect liability of sureties.*

17. *If charge of embezzling fails, but it appears that account, &c. was falsely made up, offender may be fined.*

For Punishing Breaches of Trust.

For the punishment of Breaches of Trust, It is enacted as follows:

I. Every person employed in the public Service of Her Majesty, or of the East India Company, and entrusted, by reason of such employment, with the receipt, custody or control of any chattel, money, or valuable security, who shall embezzle the same

or any part thereof or in any manner fraudulently apply, use or dispose of the same, or any part thereof for any purpose other than a purpose to which the same is applicable under the trust reposed in him, shall be deemed to have feloniously stolen the same.

II. All Official Trustees, Assignees and Receivers of Money, by virtue of their several offices or appointments, all Justices of the Peace, Coroners and other persons, receiving by virtue of their offices or appointments any fines, forfeitures, penalties or other moneys, on behalf of Her Majesty or of the East India Company, all Sheriffs, Under-Sheriffs, Bailiffs, Officers and other persons employed to levy money in execution of the judgment or order of any Court: or in receiving any taxes or other moneys directed to be levied by any Regulation of the Governor or Governor in Council of any Presidency or Place, or by any Act of the Governor General of India in Council, and also all Subordinate Officers and Servants employed in the office or service of any of the persons hereinbefore enumerated, and entrusted with money in the course of such employment, are declared to be persons employed in the public service within the meaning of this Act; but this special enumeration of some of the persons included in the general description of persons in the public service of Her Majesty or the East India Company, shall not be taken to abridge the meaning of that general description.

III. The Clauses respectively numbered XCIX, C, CI, CII, CIII and CIV, in an Act of Parliament passed in the ninth year of the Reign of King George the Fourth, intituled an Act for improving the Administration of Criminal Justice in the East Indies, are repealed, except as to all things done or forborne to be done before the passing of this Act.

IV. Every Clerk or Servant, who shall steal any chattel, money or valuable security, belonging to, or in the possession or power of his Master, shall be punishable in the same manner as persons convicted of felonious stealing under this Act.

V. Every Clerk or Servant, or any person employed for the purpose, or in the capacity of a Clerk or Servant, who shall by virtue of such employment, receive or take into his possession any chattel, money or valuable security, for or in the name or on the account of his Master, and who shall fraudulently embezzle

the same or any part thereof, shall be deemed to have feloniously stolen the same from his Master, although such chattel, money or security was not received into the possession of his Master, otherwise than by the actual possession of his Clerk, Servant or other person so employed.

VI. Every Member and Officer of a Trading Corporation or Company, and also every Banker, Merchant, Factor, Broker, Attorney or other Agent, whether he be commonly so employed or be employed as an Agent in that instance only, and whether he act as such Agent gratuitously or otherwise, to whom any chattel, money or valuable security is entrusted for safe custody, or for any special purpose, and whether with or without any authority to sell, negotiate, pledge, or employ the same, but with an authority limited to some defined purpose as to the application of such money, chattel or valuable security, or of any part thereof, or of the proceeds or of any part of the proceeds thereof, who shall fraudulently apply, use or dispose of the same or any part of the proceeds thereof, for any purpose other than a purpose for which the same was entrusted to him, shall be deemed to have feloniously stolen the same.

VII. Every Sub-Agent, Clerk or Servant of any such Trading Corporation or Company, or of any Banker, Merchant, Factor, Broker or other Agent as aforesaid, who, knowing the purpose for which such chattel, money or valuable security was entrusted to the Corporation, Company, Person or Persons, by whom he is employed, shall fraudulently apply, use or dispose of the same, for any purpose other than a purpose for which the same was entrusted to his employer or employers, shall be deemed to have feloniously stolen the same though he were not himself immediately employed or entrusted with the disposition thereof by the person entitled thereto.

VIII. Every person possessed, or having the receipt, custody or control, of any chattel, money or valuable security, in trust for any other person or persons, who shall embezzle the same or any part thereof, or in any manner fraudulently apply, use or dispose of the same, for his own use or benefit, in breach of the trust reposed in him, shall be deemed to have feloniously stolen the same.

IX. Every person convicted of having feloniously stolen any

chattel, money or valuable security under this Act, shall be liable to be transported out of the territories under the Government of the East India Company for life, or to be imprisoned with or without labour for any term not exceeding seven years.

X. Every instrument entitling or shewing the title of any person to any share or interest in any public stock or fund of any Country or State, or in any Stock of any Corporation or Company, or for the transfer of any such share or interest, or for the receipt of any dividend or interest on any such share, or entitling or shewing the title to any deposit in any Bank, and every warrant, order or instrument for the payment of any money on any event, certain or contingent, or for the delivery or receipt of any goods, or merchandize, or any such event, is a valuable security within the meaning of this Act.

XI. Any offender under this Act may be proceeded against on the same charge for any number of distinct acts of embezzlement or fraudulent application, use or disposition as aforesaid, committed by him within six calendar months, from the first to the last of such acts: and proof of a gross deficiency in the accounts of any such Trustee or Public Servant, shall be evidence of the offence charged, until such deficiency is otherwise explained.

XII. If the offence relates to money or to any Bank Note, Bank Post Bill, Banker's Cheque, Bill of Exchange, Promissory Note, Government Paper or other like security for the payment of money, it shall be enough in the indictment or charge to allege the embezzlement or fraudulent application, use or disposition of money, without specifying any particular coin or valuable security; and such allegation shall, so far as regards the kind of property, be sustained, if the offender is proved to have embezzled or fraudulently applied, used or disposed of any amount of money or any valuable security, though the particular kind of coin or valuable security, of which such amount was composed shall not be proved.

XIII. It shall not be necessary, in any proceeding against any offender under this Act, to declare the person to whom the property embezzled or fraudulently applied or disposed of belongs otherwise than hereinafter provided, or to give any other description of it than by stating its general character according to the provisions of this Act; and if the offence be that of embezzlement

or fraudulent application, use or disposition, by a person in the public service of the Crown, or of the East India Company, of property entrusted to him by reason of such employment, or part thereof, it shall be enough to state that the defendant was in such service, and that he received the property by reason of such employment, and embezzled the same, or part thereof, or fraudulently applied, used or disposed of the same, as the case may be; and, if the case be one of fraudulent application, use or disposition by any person not being such public servant but entrusted as aforesaid, it shall be enough to state that such person was entrusted with the property (describing its general character as aforesaid,) and it shall be enough to state shortly the purpose of the trust, and that he fraudulently applied, used or disposed of the same contrary to his duty in that behalf.

XIV. The Court before which any offender is tried under this Act shall have power upon the trial to make any amendments that may be necessary, by reason of any variance between the statements of the charge and the evidence, either in the description of the property, or of any person, or of any office, appointment or employment, or of the purpose of the trust or otherwise, when in the opinion of the Court the person charged cannot have been misled as to his defence by such imperfect or erroneous statement.

XV. Every offender under this Act may be tried and punished by any Court of competent jurisdiction either in the place where he is in custody, or where he committed the offence.

XVI. The punishment of any offender under this Act shall not be deemed to take away or lessen his liability or the liability of his sureties to make good any losses sustained by Her Majesty or the East India Company, or any other person or persons by his misbehaviour or breach of trust.

XVII. Every person charged with a felonious breach of trust under this Act, who shall be proved to have knowingly made up or furnished false statements or accounts of the sums of money received or paid by him or entrusted to his care, or of the goods or balance of money in his custody or control, shall be liable to fine in the discretion of the Court, although no actual embezzlement or fraudulent application, use or disposition of trust, moneys, chattels or valuable securities is proved against him, and in

addition to such fine may be imprisoned, with or without labour, as the Court shall adjudge, for any term not exceeding one year; but no person convicted of felonious breach of trust as aforesaid shall be punished also for making up false accounts in connection with the same breach of trust.

STRAITS' SETTLEMENTS.—CRIMINAL LAW.

ACT No. XIV. OF 1850.

[*Passed on the 22nd March*, 1850.

1, 2. *Powers given by Acts* 21, 1839, *and* 3, 1842, *to Calcutta Justices for trial of specified offences, extended to Justices of Straits' Settlements.*

3. *Magistrate or J. P. to be deemed a Magistrate within Act* 3, 1844.

4. *Persons summoned as Witnesses and refusing to attend, &c. to be fined by any Magistrate or J. P.*

An Act for assimilating the Penal Jurisdiction of Police Magistrates at the Straits' Settlements to that of Justices of the Peace at Calcutta.

Whereas it is expedient to apply the provisions of the Acts XXI. 1839 and III. 1842, to the Straits' Settlements, and to remove doubts whether Act III. 1844, is in force there, It is declared and enacted as follows:

I. All powers given by Act XXI. 1839, or Act III. 1842, to any Justice of the Peace for the Town of Calcutta, for the trial and punishment of certain simple larcenies and other felonies within the Town of Calcutta, and of assaults on board of Merchant Ships, in the River Hooghly, may be exercised by any Magistrate or Justice of the Peace of the Settlements of Prince of Wales' Island, Singapore and Malacca, for the trial and punishment of the like larcenies, felonies and assaults within the said Settlements respectively, and the like assaults on board of any Merchant Ship in the roads belonging to the said Settlements respectively.

II. In execution of the powers of the said Acts, by any Magistrate or Justice of the Peace for any of the said Settlements, the said Acts shall be read, as if the said Settlement and the Recorder's Court there were severally mentioned therein, instead of the Town of Calcutta, and Supreme Court of Justice at Calcutta, and as if the said Settlement and the roads thereof

were mentioned therein, instead of the River Hooghly, or the mouths thereof, and in construing the said Acts, and this Act, two rupees shall be deemed equivalent to one dollar.

III. Act III. 1844 is in force within the said Settlements, and any Magistrate or Justice of the Peace there shall be deemed a Magistrate within the meaning of that Act.

IV. Any Magistrate or Justice of the Peace for any of the said Settlements may punish any person who having been lawfully summoned to give evidence in any Criminal proceeding before any Magistrate or Justice of the Peace for the same Settlement, shall refuse or without reasonable cause neglect to attend and give evidence, by a fine not exceeding One Hundred Rupees to be levied as directed by Act II. 1839.

Repealed by X of 81

BENGAL.—MOONSIFFS.

ACT No. XV. OF 1850.

[*Passed on the 4th April*, 1850.

1. *Ss.* 10 *and* 12 *of R.* 26, 1814, *extended to suits instituted in Moonsiffs' Courts.*

2. *Act* 12, 1843, *to apply to the Moonsiffs' Courts.*

An Act to extend the operation of Sections X. and XII., Regulation XXVI. 1814 of the Bengal Code.

Whereas it is expedient for the better administration of Justice to extend the provisions of Section X. Regulation XXVI. 1814, and make them applicable to Suits instituted in the Courts of the Moonsiffs, It is enacted as follows:

I. From the passing of this Act, Sections X. and XII., Regulation XXVI. 1814, shall be applicable to all Suits instituted in the Courts of the Moonsiffs, in the Presidency of Fort William in Bengal.

II. The provisions of Act XII. 1843, shall apply to all points which the Court shall record as the points to be established, or on which proof is required by the Court according to Section X. Regulation XXVI. 1814, and to this Act.

Repealed by XVII of 62

CRIMINAL LAW.

ACT No. XVI. OF 1850.

[*Passed on the 4th April,* 1850.

1. *Persons convicted of robbery and other offences against property, may be fined, &c. in addition to other punishment.*

2. *Fines under this Act may be levied by distress and sale of goods.*

An Act for restitution of the value of Stolen Property.

Whereas it is expedient that the several Criminal Courts within the Territories under the Government of the East India Company be empowered to add the punishment of fine to the punishments already provided for persons convicted before them of certain offences respecting Property, and to apply the same for the benefit of those who have suffered by such offences, it is declared and enacted as follows:

I. All Criminal Courts within the said Territories may add to the punishment competent to them to inflict upon persons convicted before them of robbery, theft, embezzlement, knowingly receiving stolen goods, cheating or other wrongful appropriation of Property, or of being accessory or privy to any such offence, the punishment of fine, not exceeding the loss appearing to be caused to the several persons, who have suffered by such wrong: and may pay and distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said several persons, according to the discretion of the Court.

II. Payment of every such fine to be enforced by distress and sale under the order of the Court, of the goods of the offender.

BOMBAY AND COLABA.

ACT No. XVII. OF 1850.

[*Passed on the 4th April,* 1850.

Extends Ss. 15 *to* 21 *inclusive, of Act* 28, 1839 *to empower the Petty Sessions to take land in the Island for public purposes.*

An Act for taking land in Bombay and Colaba for public purposes.

For enlarging the powers of Act XXVIII. 1839, for taking

any ground within the Islands of Bombay and Colaba, for any new public road or thoroughfare, for the purpose of enabling the Government to take land needed for any railway for the conveyance of goods or passengers within the said Islands, the construction of which may be sanctioned by Parliament or by the Government of India, and for other public purposes, It is enacted as follows:

I. Sections XV. to XXI., both inclusive, of Act XXVIII. 1839, shall extend to enable the Court of Petty Sessions, with the sanction of the Governor of Bombay in Council, to take any ground or building within the Islands of Bombay and Colaba, which may be needed by the Governor of Bombay in Council for any railway for the conveyance of goods or passengers, the construction of which is or shall be sanctioned by Parliament, or by the Government of India, or for any other purpose which shall be declared to be a purpose of public utility by the said Governor in Council; and thereupon the East India Company shall become and be the legal owners of the said ground or building, and every other person theretofore interested in the premises shall be divested of all right, title and interest to and in the same.

PROTECTION OF JUDICIAL OFFICERS.

ACT No. XVIII. OF 1850.

[*Passed on the 4th April,* 1850.

I. *No Judge, &c. acting judicially to be liable to be sued for judicial acts within or without limits of his jurisdiction, if in good faith he believed he had jurisdiction. Same immunity to Officers acting in execution of orders of Judicial Officers.*

An Act for the protection of Judicial Officers.

For the greater protection of Magistrates and others acting judicially, It is enacted as follows:

I. No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: provided that he at the time, in good faith,

believed himself to have jurisdiction to do or order the act complained of: and no Officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

BINDING APPRENTICES.

ACT No. XIX. OF 1850.

[*Passed on the* 11*th April*, 1850.

1. *Any child above* 10 *and under* 18 *may be bound by his Father, Guardian, &c. for not exceeding* 7 *years, but to end at age of* 21, *or marriage, if a female.*

2. *The Apprentice-deed to be conclusive of age in favor of Master.*

3. *Magistrate or Justice of the Peace to have all power of a guardian under this Act, as to certain children.*

4. *Poor child brought up by any Public Charity may be bound by the Governors, &c.*

5, 6. *Boys may be bound to sea service, and* (6) *to sea service of East India Company.*

7. *Master of ship to be deemed the agent of owner for purpose of this Act.*

8, 9, 10. *Prescribes the form of contract of apprenticeship,* (9) *contract to be signed by whom, and* (10) *deposited in office of Chief Magistrate, &c.*

11. *Terms of service may be changed, or contract be determined, &c. by writing on the contract, &c.*

12. *Master may assign Apprentice with his consent to other person, provided acceptance of Apprentice by assignee is endorsed on contract, &c.*

13, 14. *Upon complaint by, or on behalf of Apprentice, of specified breaches of duty by Master, Magistrate may summon Master and examine into the matter, and cancel the contract and assess allowance far Apprentice, &c.; but* (14) *reasonable chastisement of Apprentice by Master not to be a ground for cancelling contract, and cancellation not to bar criminal liability of Master.*

15, 16. *Upon complaint by, or on behalf of Master, of specified misconduct of Apprentice, Magistrate may issue warrant against latter, and punish him by imprisonment, or whipping, or keeping on bread and water, &c. and* (16) *in case of wilful and repeated ill behaviour, contract may be cancelled, &c.*

17. *How money recovered from Master on behalf of Apprentice may be applied.*

18. *No complaint against Apprentice to be entertained unless brought within one month, nor against Master unless brought within* 3 *months after cause arose, &c.*

19, 20. *Death of Master to determine the contract, and proportionate part of premium to be returned unless Executors offer to keep the Apprentice; such offer* (20) *to be certified in the original contract.*

21. *Apprentice entitled to maintenance for three months after death of Master, if he continues service.*

22. *Bankruptcy of Master to put an end to contract, and premium may be recovered from his estate.*

23, 24. *British Subjects to be amenable for purposes of this Act to Courts of East India Company, and* (24) *order of Magistrate may be appealed against to Session's Judge.*

25. *Interprets words.*

Schedule *A*. *Form of agreement.*

Schedule *B*. *Form of order of assignment.*

Concerning the binding of Apprentices.

For better enabling children, and especially ophans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood, It is enacted as follows:

I. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or in the case of a female, beyond the time of her marriage.

II. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

III. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate of vagrancy, or the commission of any petty offence.

IV. An orphan or poor child, brought up by any public charity, may be bound apprentice by the Governors, Directors or Managers thereof, as his or her guardians for this purpose.

V. Any such boy may be bound as an apprentice in the sea service to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of the East India Company,

which has been declared to be a registering port under Act X. 1841, to be employed in any such ship the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.

VI. Any such boy may be bound in like manner for sea service in any ship of the East India Company belonging to any such port, commanded by a British subject, in which case the contract shall be made with the Master Attendant at such port, or any officer appointed to represent the East India Company in this behalf, who shall appoint the ship in which such apprentice is to serve from time to time.

VII. The Master or Commander of any ship in which an apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.

VIII. Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A.) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

IX. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the Governors, Directors or Managers of a Public Charity, the signature of two of them, or of their Secretary or Officer, shall be sufficient on behalf of the persons binding the apprentice.

X. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea service, in the office of the person appointed under Act X. 1841, to make registry of ships at the port where the apprentice is to begin his service; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the hand-writing of the Magistrate or Registering Officer.

XI. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided, that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to Section VIII. of this Act; and the Magistrate or Registering Officer shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

XII. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the condition thereof; provided that such person shall by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and convenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate or Registering Officer according to the form given in Schedule (B.) annexed to this Act.

XIII. Upon complaint made to any Magistrate in the said territories, by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint; and at such time, whether the master or his agent be present or not, (service of the summons being proved), may examine into the matter of the complaint; and upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be

the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than Fifty Rupees was paid, not exceeding Two Hundred Rupees: and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

XIV. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child, and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child: whether or not any proceedings be taken for cancelling the contract of apprenticeship.

XV. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

XVI. Upon complaint of wilful and repeated ill behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

XVII. The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

XVIII. No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories: and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose; or if the cause of complaint arose on board ship during a voyage within three months after the arrival thereof at a port or place in the said territories.

XIX. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which

case the estate of the deceased shall be discharged from all liabilities on account of such premium.

XX. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors, and administrators on the original contract of apprenticeship; and also on the office copies thereof, by the Magistrate or Registering Officer; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

XXI. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.

XXII. The apprentice of any person against whom a Commission of Bankruptcy shall be issued, or who shall be adjudged to have committed an Act of Insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof, as a debt against the estate of the bankrupt or insolvent.

XXIII. For the purpose of this Act all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the Government of the East India Company, without the Towns of Calcutta and Madras, and the Town and Island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of the East India Company.

XXIV. An appeal shall lie from any order passed by any Magistrate without the said Towns and Island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

XXV. In this Act the words "master," owner," "person," and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

SCHEDULE A.

FORM OF AGREEMENT.

This Agreement made the day of in the year between A. B., of and C. D., of witnesseth that the said A. B., doth this day bind E. F., a boy (or girl) of the age of years completed, son (or daughter) of the said A. B. (or otherwise describing the relation in which A. B. and E. F. stand,) to dwell with and serve the said C. D., as an apprentice, from this day forth for years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said C. D., according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things toward the said C. D. and his (or her) family. And the said C. D. for himself (or herself) and his (or her) executors and administrators, in consideration (of the premium or sum of paid by the said A. B., to the said C. D., the receipt whereof the said C. D. hereby acknowledges, and) of the faithful service of the said E. F., doth covenant and agree with the said A. B., his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said E. F., in the best way and manner that he (or she) can, the trade (craft or employment) of a during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary fit and reasonable for an apprentice: (and further, *here insert any special covenants.*)

If there is no premium the words between brackets may be omitted.

In witness whereof the parties have hereunto set their hands and Seals, the day and year above written.

A. B. (L. S.)

C. D. (L. S.)

SCHEDULE B.

FORM OF ORDER OF ASSIGNMENT.

(To be endorsed on the Agreement.)

Be it known to all men that on the day of in the year personally appeared before G. H., Magistrate of C. D., of with E. F., his (or her) apprentice, and J. K., of and desired that the agreement of apprenticeship, whereby the said E. F. was bound to the said C. D., might be assigned and made over to the said J. K., and the said G. H. having satisfied himself, by personal examination of the said E. F., and by other lawful ways and means, that such assignment is for the benefit of the said E. F., and is made with the consent of (the said E. F., and of) all persons whose consent thereunto by law is required, doth allow such assignment: and the contract of apprenticeship whereby the said E. F. was on the day of in the year bound to the said C. D., as an apprentice to learn the trade (craft or employment) of a shall henceforth endure, unto the end of the said term, as if the said J. K. had been originally party to the said deed, and had executed the same, in the place and instead of the said C. D., and shall be bound, for himself (or herself) his (or her) executors or administrators, to fulfil the covenants by the said C. D., to be performed, and the said E. F. shall henceforth be bound unto the said J. K., in like manner as he (or she) was by the said agreement bound unto the said C. D.

If E. F. is not above the age of fourteen years, the words between brackets may be omitted.

C. D. E. F. J. K.

In witness whereof the said C. D., E. F. and J. K. have hereunto set their hands before me the day and year above written.

G. H., Magistrate.

CUTTACK.

ACT No. XX. OF 1850.

[*Passed on the* 11*th April*, 1850.

Disputes about the boundaries of zemindaries to be tried by Superintendent of Tributary Mehals according to instructions from Government, &c.

An Act for settling the boundaries of the Tributary Mehals in Cuttack.

Whereas certain jungle or hill zemindaries in the Zillah of Cuttack, enumerated in Section XXXVI. of Regulation XII, 1805, of the Bengal Code, and the Territory of Mohurbunge, in the same zillah, were temporarily exempted by the said Regulation from the Regulations relating to the settlement and collection of the public revenue, and by Regulation XIII. 1805, of the Bengal Code, were temporarily exempted from the Laws and Regulations for the maintenance of the Police, and for the administration of justice in criminal cases, and whereas doubts have been entertained how disputes as to the boundaries of the said zemindaries are to be determined, It is enacted as follows:

I. Every case in which the boundaries between any of the said zemindaries, or the Killahs of Boad and Atmullick, and an estate subject to the Regulations of the Bengal Code, shall be in dispute, shall be heard, tried and determined in the first instance by the Superintendent of the Tributary Mehals, in Zillah Cuttack, according to such instructions as he shall, from time to time, receive from the Governor of Bengal, and his award, when confirmed by the Governor of Bengal, shall be final and conclusive, and shall be carried into execution by the Superintendent of Tributary Mehals by giving possession of the land in dispute to the parties entitled under his award.

BENGAL, MADRAS AND BOMBAY.

ACT No. XXI. OF 1850.

[*Passed on the* 11*th April*, 1850.

Recites expediency of extending S. 9 *of R.* 7, 1832 *of Bengal Code.*

1. *Annuls any Law inflicting forfeiture of rights or inheritance, by reason of loss of Caste through change of Religion, &c.*

An Act for extending the principle of Section IX. Regulation VII. 1832, of the Bengal Code, throughout the Territories subject to the Government of the East India Company.

Whereas it is enacted by Section IX. Regulation VII. 1832, of the Bengal Code, that "whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindoo and the other of the Mahommedan persuasion:

or where one or more of the parties to the suit shall not be either of the Mahommedan or Hindoo persuasions: the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled;" and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East India Company, It is enacted as follows:

I. So much of any law or usage now in force within the territories subject to the Government of the East India Company, as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of any religion, or being deprived of caste, shall cease to be enforced as Law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.

GOVERNOR GENERAL.

ACT No. XXII. OF 1850.

[*Passed on the* 13*th April*, 1850.

1. *During absence from Council, Governor General alone may exercise all powers except those of making laws, &c.*

2. *Act to commence from date of official announcement that Governor General has quitted Calcutta, &c.*

An Act for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

Whereas it is expedient that the Governor General should visit the North-Western Provinces and other parts of India, unaccompanied by any Member of the Council of India, it is enacted as follows:

I. During the absence of the Governor General from the Council of India, it shall be lawful for the Governor General alone to exercise all the powers which may be exercised by the Governor General in Council, except such powers as may by a Resolution of the Governor General in Council be exercised by the President in Council during the absence of the Governor General, and except the power of making Laws and Regulations.

II. This Act shall commence from the day on which it shall be notified by an order published in the Official Gazette, that the Governor General has quitted Calcutta for the purpose of so proceeding as aforesaid

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CALCUTTA.--LAND REVENUE.

ACT No. XXIII. OF 1850.

[*Passed on the 8th June,* 1850.

1. *All Assessable lands to be Assessed at rate of* 3 *annas per Cottah.*

2. *Lakhiraj tenures of sixty years' existence to be valid, no others.*

3. *Collector may levy land Assessment by distress and sale of goods, &c. of lessee or owner, or of tenant, under Act* 7, 1847.

4. *Tenant paying land revenue may deduct it from his rent.*

5. *Claim of East India Company for land revenue to take priority over all other claims.*

6. *If claim is disputed, process not to be stayed unless the amount is deposited with the Collector.*

7. *Arrears of rent or revenue to be recoverable in six years, &c. but not afterwards.*

8. *Collector to enquire into ground of claim to hold land free of Assessment, and report to Commissioner, and Commissioner's decision to be final if in favor of exemption, if against it, land to be Assessed and claimant to be left to contest the Assessment in Civil Court.*

9. *Persons obstructing, &c. Collector, &c. to be liable to fine and in default of payment to imprisonment.*

10. *Collector may punish any contempt by fine, &c. subject to appeal to the Commissioner.*

11. *Collector to act under control of the usual Revenue Authorities.*

12, 13. *Excludes jurisdiction of Supreme Court as to ground rents of East India Company in Calcutta, and* (13) *all actions concerning any trespass or injury by officer acting under this Act, &c. to be tried in East India Company's Court of the* 24 *Pergunnahs.*

14. *Interprets the words 'Collector' and 'Commissioner'.*

An Act for securing the Land Revenue of Calcutta.

Whereas it is expedient that the Land Revenue, accruing due to the East India Company within Calcutta, be ascertained and collected in as summary a manner as in other parts of the Territories under the Government of the East India Company, It is declared and enacted as follows:

I. All Assessable Lands, not the property of the East India Company, within the Town of Calcutta, of which the rate of

Assessment is not known, or which have not heretofore been assessed, shall be assessed at the rate of three annas for each Cottah.

II. Lakhiraj tenures of Land in Calcutta, of which uninterrupted possession has been held, exempt from Assessment for sixty years, shall be valid: no other Lakhiraj tenures of Land in Calcutta shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.

III. If any owner of Land within Calcutta or any person holding Land within Calcutta on lease from the East India Company shall, upon the written demand of the Collector, refuse or neglect to pay any sum at which the Land is assessed, or for which he is liable under his lease, the Collector may levy the same by distress and sale of the Goods and Chattels, wherever found, of such owner or lessee, or, after written demand upon the tenant or occupier, and his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any Goods and Chattels found upon the land, in the manner appointed for regulating distress for small rents in Calcutta by Act VII. 1847, and, for the purpose of any such distress and sale, the Collector shall have all the powers of a Commissioner of the Court for Recovery of Small Debts referred to in the said Act, and the Collector shall have power to appoint any of his Officers to perform the duties of Bailliffs and Appraisers, and of the Chief Clerk of the said Court as provided by the said Act, and all the provisions of the said Act relating to the said Commissioners and their Court shall be deemed to apply to the said Collector and his Office in the execution of this Act.

IV. In the case of payment by any tenant or occupier, not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

V. The claim of the East India Company for Land Revenue or rent has priority over all other claims upon the land or to which property distrained upon the land may be liable.

VI. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

VII. Arrears of rent or revenue which shall become due to

the East India Company within the Town of Calcutta, after the passing of this Act, shall be recoverable at any time within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable or his Agent, and not afterwards.

VIII. When a claim to hold Land Lakhiraj, or free of Assessment, shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer, or the public Records supply, and shall report his proceedings and decision in the case for the consideration of the Revenue Commissioner. If the Commissioner is satisfied of the validity of the claim, he shall make an order accordingly, and such order shall be final. If he is not satisfied of the validity of the claim, he shall direct the Collector to assess the Land, leaving the claimant to contest the Collector's demand in the Civil Courts as herein provided.

IX. Any person obstructing or molesting the Collector, or any of his Subordinate Officers in the execution of their duty, shall, on conviction before a Magistrate of the Town of Calcutta, be liable to a fine not exceeding Five Hundred Rupees, and in default of payment to imprisonment in the Common Jail for a term not exceeding six months, or until the fine is sooner paid.

X. The Collector may punish any contempt committed in his presence, in open Cutcherry or Office, by fine, not exceeding Two Hundred Rupees, and in default of payment by imprisonment in the Common Jail for a term not exceeding one month: from every such order or fine or imprisonment an appeal shall lie to the Commissioner, whose decision shall be final.

XI. The Collector shall act in the execution of this Act under the usual controul of the Superior Revenue Authorities.

XII. The Ground Rents payable to the East India Company from Lands in Calcutta are Revenue, within the meaning of the Act of Parliament 21 Geo. III. C. 70, and the Supreme Court of Judicature established by Royal Charter at Fort William in Bengal has not any civil jurisdiction concerning the said Ground Rents, or concerning any thing ordered or done in the Assessment or collection thereof.

XIII. All actions concerning any trespass or injury committed by any Revenue Officer acting under colour of this Act, or

concerning any claim in respect of any goods taken by or any monies paid to any Revenue Officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts, established by the East India Company at the Sudder Station of the Twenty-four Pergunnahs: notwithstanding that the cause of action, in respect of which such action is brought, arose, or the defendant therein reside, within the limits of the Town of Calcutta: and every such action shall be brought within six months after the cause of action arose, and not afterwards.

XIV. The words 'Collector' and 'Commissioner' used in this Act shall be taken to mean any person lawfully appointed to exercise the powers of Collector and Commissioner respectively.

BOMBAY.—CUSTOMS.

ACT No. XXIV. OF 1850.

[*Passed on the 8th June*, 1850.

1. *Repeals Rs.* 33, 1827; *and* 15 *of* 1828 *of the Bombay Code and part of Act* 1, 1838 *respecting import duty on Tobacco.*

2. *Tobacco imported into the Island to be liable to customs duty of* 7-8 *per maund, &c.*

3. *Drawback allowed only on Tobacco exported from Custom-House, Warehouse, &c.*

4. *Reserves other Acts for imposing penalties, &c.*

An Act for better defining the special duty levied on Tobacco in Bombay.

Whereas the laws in force respecting the special duty payable on Tobacco imported into Bombay are obscure, and require to be explained and amended, It is declared and enacted as follows:

I. Regulations XXXIII. 1827, and XV. 1828, of the Bombay Code, and so much of Act I. 1838, as relates to the customary, or special duty levied on the import of Tobacco into the Island of Bombay, are rescinded and repealed.

II. All Tobacco imported into the Island of Bombay, either by Sea, or across any of the Causeways, from whatever port or place it is brought, is and shall continue to be liable to the payment of a special duty levied at the rate of Seven Rupees and

Eight Annas for the Indian maund, which duty shall be paid over and above the customary duty of One Rupee and Eight Annas, at the option of the importer, either on importation, or, after being warehoused in the Custom House Warehouse, on being delivered out for internal consumption.

III. No drawback of the said duty shall be allowed on exportation, unless the Tobacco has been warehoused in and is exported direct from the Custom House Warehouse; in which case a drawback of the whole of the special duty shall be allowed, if claimed at the time of re-exportation.

IV. This Act shall not be taken to affect the provisions and penalties of any Act or Regulation for enforcing payment of the special duty, which shall continue in force for compelling payment of the duty as declared payable by this Act, and for punishing any evasion of such payment.

BENGAL.—LAND REVENUE.

Repealed by X of 1861 in regard to forfeited deposits of sales of land or any interest in land in execution of decree.

ACT No. XXV. OF 1850.

[*Passed on the* 14*th June*, 1850.

1. *Repeals part of S.* 9 *R.* 8, 1819 *and of Ss.* 5 *and* 9 *of Act* 4, 1846.
2. *Forfeited deposits to belong to Government.*

An Act for the forfeiture to Government of deposits made on incomplete Sales of Land under Regulation VIII. 1819, and Act IV. 1846.

Whereas Putneedars and Judgment Debtors fraudulently avail themselves of the provision in Section IX., Regulation VIII. 1819, of the Bengal Code, and in Section V., Act IV. 1846, that forfeited deposits at Sales of Land in execution of decrees or for arrears of rent shall be applied as if they were purchase money, It is enacted as follows:

I. So much of Section IX., Regulation VIII. 1819, of the Bengal Code, and of Sections V. and IX., Act IV. 1846, as provides that the deposit at any sale of Land, or any interest in Land, under the said Regulation or Act, if forfeited, shall be regarded as part of the proceeds of the sale, or applied as if it were purchase money, is repealed.

II. Any such forfeited deposit shall be applied to defray the

expenses of the sale, and the surplus shall be forfeited to Government.

BENGAL. MADRAS. BOMBAY.—MUNICIPAL.

ACT No. XXVI. OF 1850.

[*Passed on the 21st June*, 1850.

1. *Repeals Act* 10, 1842.

2. *Act may be put in force by order of Local Government wherever inhabitants desire it.*

3, 4. *Notice of application to Government to be advertized in order that inhabitants may declare their wishes, and* (4) *decision of Local Government therein to be final.*

5. *Act to come in force from publication of order, and order to be conclusive, &c.*

6, 7. *Commission formed of Magistrate and inhabitants to be appointed by Government, who shall make rules, &c. for furtherance of Act: and* (7) *the rules shall be for objects in Act specified.*

8. *Empowers Commissioners to make necessary contracts and apply the taxes.*

9. *Commissioners not to be personally liable on contracts but only for misapplication of monies and gross neglect.*

10. *Act* 10, 1839, *for recovery of fines to apply to taxes, &c. under this Act.*

11. *No rate or assessment to be invalid for defect of form, &c.*

12. *All moveable property on the assessed premises to be liable for taxes.*

13. *Account of receipts and disbursements to be submitted annually to Local Government.*

14. *Empowers Government to suspend the operation of the Act.*

An Act to enable improvements to be made in Towns.

Whereas Act X. 1842, was passed for enabling the inhabitants of any place of public resort or residence, under the Presidency of Fort William, not within the Town of Calcutta, to make better provision for purposes connected with public health and convenience, but the said Act has proved ineffectual for the purpose, and it is expedient to amend the provisions thereof, and to extend the like powers to the inhabitants of Towns in the other Presidencies under the Government of the East India Company, It is enacted as follows:

I. Act X. 1842, is repealed.

II. If it shall appear to the Governor or Governor in Council, or Lieutenant Governor, of any Presidency or Place within the Territories under the Government of the East India Company,

that the inhabitants of any Town or Suburb, not within the Town of Calcutta, Madras, or Bombay, are desirous of making better provision for making, repairing, cleaning, lighting, or watching any public streets, roads, drains, or tanks, or for the prevention of nuisances, or for improving the said Town or Suburb in any other manner, the said Governor or Governor in Council, or Lieutenant Governor, may order this Act to be put in force within such Town or Suburb.

III. Whenever any application shall be made to the Government for putting this Act in force in any Town or Suburb, notice thereof shall be given in the *Government Gazette* of the Presidency, or place, and also by proclamation within such Town or Suburb, setting forth the purposes of the application, and giving reasonable time for all inhabitants of such Town or Suburb, who are minded to declare themselves for or against the adoption of this Act therein, for such purposes or any of them.

IV. The Governor or Governor in Council, or Lieutenant Governor, shall take all such declarations into due consideration; and after the time allowed for receiving the same, shall make a final order, which shall be published in the *Government Gazette*, and also notified by proclamation within such Town or Suburb, to the effect that the application appears, or does not appear, to be according to the wishes of the inhabitants, either wholly, or in respect to one or more of the purposes in respect of which it is made; and if the whole or any part of it shall appear to be according to the wishes of the inhabitants, then that this Act shall be thenceforth in force in such Town or Suburb, for such purposes only as shall be mentioned in the Order.

V. Whenever any such order shall be made and published as aforesaid, this Act shall come into force within the said Town or Suburb, for such purposes as are mentioned in the Order, and the making and publication of the said Order shall be conclusive evidence that the provisions of this Act have been complied with, and that it is thenceforth in force within the said Town or Suburb, for such purposes as are mentioned in the Order.

VI. Whenever this Act shall come into force in any Town or Suburb, the Governor or Governor in Council, or Lieutenant Governor, shall appoint the Magistrate and such number of the inhabitants thereof as to him shall appear necessary, to be

Commissioners for putting the Act in force, and shall give authority to them to prepare Rules for more effectually accomplishing the purposes for which they are appointed; which Rules, when approved by the Governor or Governor in Council, or Lieutenant Governor, shall be of the same force within the said Town or Suburb, until altered or rescinded as hereinafter provided, as if they were inserted in this Act. And the said Governor or Governor in Council, or Lieutenant Governor, may remove any of the Commissioners and appoint others, and may fill up vacancies occurring among the Commissioners in such manner as may seem to him fit.

VII. The Rules to be prepared by the said Commissioners shall provide, among other things, for those following, that is to say:

1. The appointment and management of all necessary Officers and Servants of the Commissioners, and the salaries to be allowed to them.

2. The definition of the persons of property within the Town or Suburb to be taxed for raising the monies necessary for the purpose of this Act, whether by House Assessment or Town Duties, or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them, and ensuring the safety and due application of them when collected.

3. The manner in which from time to time the Rules in force are to be amended or rescinded, and new Rules are to be made, with the approval in every case of the Governor or Governor in Council, or Lieutenant Governor.

4. The definition and prohibition of nuisances within the Town or Suburb.

5. The imposition of reasonable penalties for breach of any Rule made by the Commissioners, not exceeding Fifty Rupees, or in the case of continuing nuisance, not exceeding Five Rupees for every day that such nuisance is continued.

VIII. The Commissioners appointed from time to time shall have full power to make all necessary contracts, for the purposes of this Act, and apply the taxes raised as aforesaid in the necessary works, and in payment of their Officers and Servants, and in the other expenses incident to the execution of this Act within the said Town or Suburb.

IX. No Commissioner shall be personally liable for any con-

tract made by the Commissioners on behalf of the inhabitants of such Town or Suburb; but every Commissioner shall be liable for any misapplication of the monies collected, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty and shall be liable to be sued for the same as for money due to, and at the suit of the East India Company.

X The powers of Act II. 1839, for the recovery of fines, shall be applied for the recovery of all arrears of taxes and penalties under this Act; and every Magistrate shall put in force the powers of the said Act II. 1839 for that purpose, whenever thereunto required by the Commissioners, or any of their Officers deputed by them for the purposes of enforcing payment of arrears of taxes imposed under this Act.

XI. No rate on property made under this Act shall be invalid for defect of form; and it shall be enough in any such rate on property, or any Assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

XII. All moveable property found in any house or building or upon any land assessed under this Act may be seized and sold by warrant of a Magistrate for payment of any arrear of tax laid on such house, building or land under this Act.

XIII. All Commissioners acting in execution of this Act shall, on or before the last day of April in every year, make up and send to the Governor or Governor in Council, or Lieutenant Governor, an account of all works executed by them, and of all sums received and spent by them in the foregoing year, in such form and with such vouchers as the Governor or Governor in Council, or Lieutenant Governor, shall from time to time order.

XIV. The Governor or Governor in Council, or Lieutenant Governor may, at any time, suspend the operation of this Act in any Town or Suburb, and appoint any person or persons to examine and report upon the behaviour of the Commissioners, or any of them, or their Officers in the execution of this Act.

MERCHANT SEAMEN.—REGISTRY.

ACT No. XXVII. OF 1850.

[*Passed on the 21st June*, 1850.

1, 2, 3. *General Registry Office at Calcutta, Madras, Bombay, &c. to be established,* (2) *with a Registrar, Assistants, Clerks, &c. and* (3) *Registrar to give a Security Bond for performance of his duties.*

4, 5. *Requires Seamen on board British vessels to apply to be Registered and thereupon to answer questions prescribed and* (5) *Registrar bound to Register such as shall answer the questions.*

6, 7. *Registrar to give the Seaman a Register ticket, for fee, in form prescribed; and* (7) *in case of loss, the Registrar bound to give a new one, on loss being accounted for, &c.*

8. *Ticket to be taken from Seaman and delivered to gaoler, when Seaman is sentenced to imprisonment, and returned to Registrar when sentenced to transportation*

9. *Registrar to cancel tickets which come again into his possession, and advertise particulars of cancelled tickets, &c.*

10. *Masters of Ships not to engage any unregistered Seaman, &c. and shall take the ticket on engaging Seaman and keep it till end of engagement. Master offending against rule liable to penalty.*

11. *Seaman falsely answering question of Registrar liable to penalty.*

12. *Every person wilfully altering, &c. any ticket liable to penalty.*

13. *Persons possessed of tickets of deceased Seamen to send them to Registrar.*

14. *Seaman using ticket not his own, &c. to forfeit wages, &c.*

15. *Penalties may be recovered in a summary way.*

16. *Fees how to be applied and a tonnage fee to be levied.*

Schedules *A. and B.*

An Act for the registry of Merchant Seamen,

Whereas it is expedient to form a register of Merchant Seamen, It is enacted as follows:

I. A General Register Office for Merchant Seamen shall be established, at each of the ports of Calcutta, Madras and Bombay, and at such other ports as the Governor General of India in Council shall hereafter deem necessary.

II. For every such Office there shall be a Registrar, with such Assistants, Clerks and Servants, at such salaries and allowances, and subject to such regulations, as shall be, from time to time, directed, with the approval of the Governor General of India in Council, by the Governor, or Governor in Council, of the Presidency or place where the office is established.

III. Each Registrar, before entering on the duties of his Office, shall, with two Sureties, execute a joint and several bond to the East India Company, according to such form as shall be, from time to time, approved by the Governor General of India in Council, conditional for the faithful performance of his duty, and for the due application and account of all monies that shall come to him, as such Registrar, under such amount of penalty as shall be, from time to time, fixed by the Governor, or Governor in Council, of the Presidency or place.

IV. Every person not having a Register Ticket from any port in the United Kingdom of Great Britain and Ireland, who intends to serve, (otherwise than as Master or Surgeon), on board of any vessel navigated from a port within the territories under the Government of the East India Company, and registered as a British Vessel under the Statutes of Parliament and Acts of the Governor General of India in Council, in force, for the time being, for the registry of British Vessels, shall be bound to appear at one of the said Register Offices, for the purpose of procuring himself to be registered, and shall be bound to answer truly, to the best of his ability and knowledge, the several questions set forth in the Schedule (A.) annexed to this Act, and such other questions as shall be, from time to time, directed by the Governor General of India in Council, and until so registered shall not be allowed, after the First day of August 1850 to serve in any capacity, (other than Master or Surgeon), on board of any such registered Vessel.

V. The Registrar shall be bound to register every Seaman, who shall appear at his office for that purpose, and truly answer the said questions to the best of his ability and knowledge.

VI. The Registrar shall give to every Seaman whom he shall register a Register Ticket, containing as accurate a description as may be, of such Seaman, in such form as shall be, from time to time, approved by the Governor General of India in Council; for which he shall be entitled to take such Fee, not exceeding One Rupee, as shall be, from time to time, allowed by the Governor or Governor in Council; and shall keep recorded in his office a duplicate of every such Register Ticket. The Registrar shall ascertain to the best of his ability, and specify on the Register Ticket, the class or rating of Seafaring persons to which

each registered Seaman appears to him to belong; and from time to time, shall note on any Ticket produced to him for that purpose any superior rating to which the holder of the Ticket appears at that time to be entitled.

VII. Whenever any Seaman shall lose his Register Ticket, he shall apply personally to one of the said Registrars, and shall be bound to answer truly, to the best of his ability and knowledge, all questions which the Registrar, or one of his Assistants shall put to him, touching the time and manner of the loss; and if it shall appear that no fraud has been committed or intended, the Registrar shall furnish another Ticket to him, upon payment of such Fee, not exceeding Five Rupees, beside the common Fee for the issue of a Register Ticket, as the Registrar shall think fit, under the instructions to be issued to him by the Governor or Governor in Council, having regard to the time and manner of the loss of the former Ticket.

VIII. Whenever any registered Seaman shall be committed to prison, or to any house of correction, the Court or Justice of the Peace shall cause his Register Ticket to be delivered to the keeper of such prison or house of correction, who shall keep it during the term of the Seaman's imprisonment, and at the end of the imprisonment give it to him again; and, whenever any registered Seaman shall be sentenced to death or transportation, the person having him in custody shall send his Register Ticket to the office of the Registrar by whom it was issued.

IX. The Registrar shall cancel every Register Ticket, which shall come again into his possession; and from time to time, shall make out lists, shewing the number and name upon every Ticket, cancelled during the twelve months then last past, and of every Ticket, which shall have been represented to him to have been lost, and in respect of which he shall have issued another Ticket during the same twelve months; and shall cause such lists to be published in the *Gazette*, in the English and vernacular language of the port, and shall also send them to the Collector of Customs and principal Officer of Police at such Towns or ports as shall be directed by the Governor or Governor in Council, to be by them respectively exhibited in some conspicuous part of the Custom House and Police Office; and copies of such lists shall be sent to the Master Attendant at every such

port, and shall be delivered to any Master or Owner of a registered Vessel on application, and on payment of a Fee of One Rupee.

X. The Master of any such Vessel shall not at any port in the said Territories, after the said First day of August, engage or employ, for the purpose of going to sea in his Vessel, any unregistered Seaman, or any Seaman having a cancelled Register Ticket; and shall cause to be delivered to him the Register Ticket of every Seaman, whom he shall so engage at any such port, after the said First day of August, before putting to sea, which Ticket the Master shall keep safely (unless in the cases herein mentioned) until the end of the service of such Seaman with him, and shall then give it back to the Seaman to whom it belongs: and every Master of a Vessel, who shall wilfully offend against this enactment, shall be liable to a penalty, not exceeding One Hundred Rupees, for each Seaman so unlawfully engaged or employed.

XI. Every person applying for a Register Ticket, who shall wilfully give a false answer to any question, which the Registrar or his Assistant is entitled to ask of him, or wilfully make any false statement before the Registrar or his Assistant as to the loss of any Register Ticket, shall be liable to a penalty, not exceeding Fifty Rupees.

XII. Every person, who shall wilfully alter, deface or destroy any Register Ticket, or counterfeit any such Register Ticket, or transfer or Traffic in any such Ticket, issued or purporting to be issued under this Act, shall be liable to a penalty, not exceeding One Hundred Rupees.

XIII. Every person, who shall become possessed of any Register Ticket, other than that lawfully issued to him, (except Masters of Vessels and others directed to keep any such Tickets by this Act), either by the death of the Seaman to whom it belonged or otherwise, shall forthwith send it to the Registrar of the port whence it was issued, and in default of so doing, shall be liable to a penalty, not exceeding One Hundred Rupees.

XIV. Every Seaman, tendering to the Master or Owner of any Vessel a cancelled Register Ticket, or any Ticket not lawfully issued to him, shall forfeit to the Owner all wages accruing to him during the service for which he shall have agreed.

XV. All penalties, directed by this Act, may be imposed on summary conviction before a Magistrate or Justice of the Peace, and may be recovered with costs, as if they were imposed by a Magistrate under Act II. 1839.

XVI. The Fees received by the Registrar shall be applied towards defraying the expenses of this Act; beside which, a yearly duty of One Anna per ton shall be levied for the same purpose on all Vessels of the burden of one hundred and fifty tons and upwards, navigated to or from the ports within the Territories under the Government of the East India Company; and the production of a certificate of payment at one port of Registry shall free the same Vessel at all others during the current year, to be reckoned from the First day of January to the last day of December.

SCHEDULE A.

1. What is your name and surname?
2. What is your father's name, and usual dwelling place?
3. Have you been registered before?
4. Where were you born?
5. When were you born?
6. When did you first go to sea?
7. In what capacity did you first go?
8. In what capacity have you since served?
9. Have you served in the Royal or Indian Navy? or in the Marine of the East India Company?
10. If you have, how long? and in what Ships? and in what capacity?
11. Have you been in Foreign Service?
12. If you have, how long? and in what capacity? and under what Flag?
13. How have you been generally employed at sea?
14. Where do you usually live when unemployed?

SCHEDULE B.

Names and numbers of the Register Tickets of the Crew (including Apprentices) now serving on board the
of the Port of of the burden of Tons,

on taking departure from the Port of in the East Indies, bound on a voyage to

Number and date of Ship's Register.	Name.	Capacity.	Number of Register Ticket.

Dated this day of 18

Master

MERCHANT SEAMEN.

ACT No. XXVIII. OF 1850.

[*Passed on the 21st June*, 1850.

1. *Ship not to go to Sea till an agreement with the Seamen has been executed.*

2. *Agreement to be in Schedule form and signed by Master, &c. in presence of Registrar, &c.*

3. *Copy of agreement certified by Registrar to be deemed a true copy and be sufficient evidence in behalf of Seamen, &c.*

4. *Seaman not to forfeit his lien on Ship by reason of any agreement, &c.*

5. *Seaman's wages to be calculated by the Calendar month.*

6, 7, 8. *If Seaman authorizes Registrar to receive a portion of his wages for his family, the owner bound to pay accordingly; such payment* (7) *to cease on certificate of Master of death, &c of Seaman and* (8) *Registrar to keep a book with entry of such payment.*

9. *Registrar to explain to Seamen the conditions on which they can allot part of their pay to their families.*

10. *Master to deliver to Registrar before leaving port a list of Seamen engaged by him or a certificate that he has not engaged any; and Registrar to give Master a certificate that he has complied with Act.*

11, 12. *To prevent infraction of Act, Registrar may board vessels and muster Seamen; and* (12) *may stay port clearance, &c.*

13, 14, 15, 16. *Master to pay wages within 7 days after arrival of Ship, and take receipt witnessed by officer, &c. and* (14) *for non-payment to forfeit double wages per diem; and* (15) *in case of death of Seaman, his wages to be paid to Registrar at first port of arrival after the decease, &c. and* (16) *if Master*

neglects for 10 days to pay wages he shall on conviction forfeit three times the amount, &c.

17, 18, 19. *In case Ship is sold at any port, or Seaman's service ends, the Seaman entitled to certificate of discharge; and to be provided with employment or a passage home; and* (18) *if Master fails to provide him employment, &c. the owner shall be liable to the Seaman or E. I. C. as case may be, for expences; but* (19) *this duty not to arise, if Seaman has consented in writing, &c. to be then discharged.*

20. *In all cases of wreck, &c Seaman to be entitled to wages whether Ship has carried freight or not, on certificate of consent.*

21. *If agreed allowance of provisions is reduced, Seaman entitled to extra wages, &c.*

22. *Assignment of wages, salvage, &c. before due, to be void.*

23, 24. *Every Ship to have on board sufficient supply of medicines, &c. according to scale to be advertised, &c. and* (24) *Master Seaman, &c receiving hurt, &c. shall be entitled to surgical attendance, &c. and be taken home at expense of owner, &c.*

25. *Seamen who have received advance of wages shall be liable to repay or work out the advance, if the vessel is prevented going the voyage, by fire, &c.*

26. *Registrar may grant license to persons to act as brokers for procuring Seamen, &c.*

27. *Persons not licensed as such broker, and acting in hiring Seamen, &c. to be liable to penalty.*

28. *Licensed broker engaging Seaman at punch-house, &c. not being licensed lodging house, to forfeit his license.*

29. *Person inducing Seaman to violate Act, or counseling Seaman to desert, liable to penalty.*

30. *Seaman refusing to join vessel, or to go to sea, &c. or deserting, liable to be arrested, and on conviction, to imprisonment, &c. not exceeding 30 days, or to be sent on board Ship, &c. and to pay costs out of wages.*

31. *Seaman to forfeit a day's wages for every unlawful absence, or 6 days wages for every 24 hours' absence, or the expense of hiring a substitute; refusing to do duty to be subject to similar forfeiture, &c.*

32, 33. *Deserter to forfeit clothes and effects left on board; and* (33) *to be liable to compensate owner for extra wages of a substitute.*

34. *Wilful absence, &c to be deemed desertion.*

35. *Wilfully harbouring, &c deserter to subject offender to a penalty.*

36. *Debt of Seaman above 3 rupees to be irrecoverable till after service is ended; and public house keeper not entitled to detain chest, &c. of Seaman for debt*

37. *On complaint of 3 of the Crew, any J. P. may order survey of Ship and examination of provisions, water, medicines, &c. which, if reported bad, shall be replaced by others, &c.*

38. *Place of shelter of specified dimensions to be provided for crew, &c.*

39, 40. *Penalties, &c. may be summarily recovered as under Act 2, 1839: also* (40) *all claims for wages, &c.*

41. *Defines who shall be deemed "Seamen" &c.*
Schedule *A*. Form of agreement.
Schedule *B*. *Ticket of* allotment of wages.

An Act for the encouragement of Merchant Seamen.

For the encouragement and protection of Merchant Seamen, It is enacted as follows:

I. The Master of any Vessel, navigated from any port within the territories under the Government of the East India Company, where a Registrar of Seamen is or shall be appointed under Act XXVII. 1850, registered as a British Vessel under any Statute of Parliament, or Act of the Governor General of India in Council, in force for the time being, for the Registry of British Vessels, except Country Craft not exceeding the burden of 300 tons employed only in Coasting voyages, shall not put to sea on any day after the First day of August 1850, until an agreement, executed as hereinafter provided, shall have been made by him with such of his Crew as are shipped at any port within the said territories, specifying what wages each Seaman is to receive, and the quantity and quality of provisions he is to receive, the capacity in which each is to act, or serve, and the voyage in which the Vessel is to be employed, or the length of time that each is to serve.

II. Every such agreement shall be in the form set forth in Schedule (A) annexed to this Act, or such other form as shall be, from time to time, approved by the Governor General of India in Council, and shall be properly dated, and shall be signed by the Master and the greater number of Seamen shipped at any port in the said territories, of each kind of rating belonging to the Vessel, on behalf of the Crew, respectively, in the presence of the Registrar of Seamen, or by some one appointed by him for that purpose, who, after hearing the agreement read over and explained to each Seaman by whom it is to be signed, in a language understood by him shall, if the Seaman assent, cause him to put his signature, or mark thereunto, and shall attest the same by his own signature, and shall keep recorded in his office a duplicate of such agreement executed and attested as aforesaid. Every Seaman shipped on board such Vessel, and not being an Apprentice, shall be entitled to have the benefit of such agreement, according to his rating, as if it were executed by him.

III. Every copy of such an agreement, certified by the Regis-

trar to be a true copy, shall, in all cases, be taken as evidence of the contents thereof on behalf of the Seamen; and no Seaman shall, in any case, be required to produce such agreement, or such copy as aforesaid, or to give notice for the production thereof; but, if the agreement shall not be produced and proved he shall be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence, according to the nature of the case.

IV. No Seaman, shipped under this Act, shall, by reason of any agreement, forfeit his lien upon the Ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise be entitled, against any person or persons whatever; and no agreement, contrary to, or inconsistent with this Act, nor any clause, contract or engagement, whereby any Seaman shall consent or promise to forego, or give up any right or claim to wages in the case of freight earned by a Ship afterwards lost, or any right or claim to salvage services, or such share of salvage or reward for salvage services as may be due to him by decree or award, or otherwise, shall be binding on such Seaman.

V. The wages of any Seaman engaged to serve on any Vessel under this Act, shall be calculated by the calendar month.

VI. If any Seaman, serving under the provisions of this Act, shall by a writing, according to a form set forth in Schedule (B) annexed to this Act, or such other form as shall be, from time to time, approved by the Governor General of India in Council, attested by the signature of the Registrar or his Assistant, and by the signature of the Master of the Vessel on which he is engaged to serve, and in which writing the purpose shall be stated, authorize the said Registrar to receive monthly from the Owner of the said Vessel or his Agent, any part of his wages, not exceeding one-third thereof, for the time for which he shall not have received any advance, for the purpose of maintaining his family during his absence, the said Owner or his Agent shall, on demand of the said Registrar, pay such sum to him, to be applied as aforesaid without requiring any proof from the said Registrar that the said Seaman is still on board the said Vessel.

VII. All such payments, whether by the Owner, his Agent or by the Registrar, shall cease from and after the production of a certificate from the Master of the Vessel, of the death, desertion

or discharge of the said Seaman, or on reasonable evidence that the Vessel has been lost; but no payment, actually made by the Registrar to the party appointed by the said Seaman, shall be reclaimable by reason of his death, desertion, or discharge, or of the loss of the Vessel.

VIII. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the Registrar under his signature or the signature of his Assistant; and the said book shall be, at all times, open to the inspection of the parties concerned.

IX. At the time of witnessing the execution of the agreement for service, the Registrar shall explain to the Seamen, parties thereunto, the conditions on which they can allot a part of their pay to their families during their service; and it shall be the duty of the Registrar to see that all Seamen leaving the port have the option of allotting part of their pay as aforesaid.

X. The Master of every such Vessel, before leaving any Port of Registry, shall deliver to the Registrar a list, signed by himself, of the name of every Seaman engaged by him in the territories under the Government of the East India Company, (including Apprentices,) with their rating and the number of their Register Tickets, according to such form as shall be, from time to time, approved by the Governor General of India in Council; and if he shall not have engaged any Seaman within the said territories, the Master shall deliver to the Registrar a certificate of the fact signed by himself; and, on receiving the said list or certificate, and on being satisfied of its truth, the Registrar shall give to the Master a certificate under his hand, that the Master of such Vessel has complied with the Regulations of the Registry Office. Every Master of any such Vessel, who shall leave a Port of Registry, without delivering such lists or certificate as aforesaid, shall be liable to a penalty, not exceeding Two Hundred Rupees.

XI. For the purpose of preventing any Seaman from being shipped on board of any Vessel in any Port of Registry, contrary to the provisions of this Act, the Registrar of the Port, by himself or his Agents, in a peaceable manner, may enter at any time on board of any such Vessel, and muster and examine the several Seamen employed therein; and any person, who shall obstruct the said Registrar or his Agents in such duty, shall be liable to a penalty not exceeding One Hundred Rupees.

XII. In cases when the Registrar shall have reason to believe that any of the provisions of this Act has been evaded or neglected by the Master, Owner or Agent of any Ship about to go to sea, the Registrar, by a writing under his hand, may stay the grant of a port-clearance by the Master Attendant; and every Master Attendant shall comply with the written requisition of the Registrar in this respect.

XIII. The Master of every such Vessel, on which any Seaman engaged under this Act may be serving, shall, within seven days after the arrival of such Vessel at the port where the voyage ends or after the end of the service, according to the agreement entered into, in accordance with this Act, pay or cause to be paid to such Seamen the wages remaining due to them for their services, taking a receipt from each man for the amount paid to him either separately or on a general list, which receipt shall be certified by the Chief or Second Officer, or other credible witness, and otherwise shall be of no force or validity.

XIV. Every Master or Owner, who shall neglect or refuse to pay any Seaman's wages, within the time mentioned in the last Section, shall forfeit and pay to such Seaman the amount of two days' pay, to be recovered as wages, for each day, not exceeding ten days in the whole, during which such payment has been delayed without sufficient cause.

XV. If any Seaman, to whom any wages are due, die before the wages due have been paid, then the wages shall be paid to the Registrar of the Port of Registry at which the Ship shall first touch after his death, and the Registrar shall pay the same to his legal representative, and failing such legal representative, after the expiration of twelve months from the First of January next following the day on which he shall have received the said balance, into the Treasury of the East India Company, after having given due notice of such unclaimed balance being in his possession, by advertisement in the *Gazette*, at least twice during such period.

XVI. Every Master of a Vessel, who shall be convicted before a Magistrate of having neglected to pay to the Registrar, within ten days of the Ship's arrival in the port as aforesaid, the wages due to deceased Seamen, shall forfeit three times the amount of wages so neglected to be paid; and further shall be subject to such fine, not exceeding One Hundred Rupees, for each case of neglect, as to such Magistrate shall seem fit.

XVII. Whenever any Merchant Vessel, navigated and registered as is mentioned in Section I., and not having been wrecked or condemned, shall be sold or disposed of at any port out of the territories under the Government of the East India Company, or whenever the service of any Seaman shall end at any such port the Master shall give to each Seaman a Certificate of discharge, and his Register Ticket, and also either provide for him fit employment on board some other such Vessel bound to some port within the said territories, or provide for him a passage to the port at which he was shipped, or such other port as may be agreed on, either free of cost, or by depositing with the British Consul or Vice Consul, or if there be none such, with some resident Merchant of the port not interested in the Vessel, such a sum of money as shall be, by him, deemed reasonable enough to pay the expenses of his subsistence and passage, which money shall be paid over and above any wages which may be due to him.

XVIII. If the Master shall neglect or refuse to provide employment, or the means of passage, for any of his Crew as mentioned in the last Section, the expense of doing so, when defrayed, shall be a charge on the Owner of the Vessel, unless in cases of barratry, wreck or condemnation, and may be recovered with full costs of suit from such Owner as so much money paid on his account, at the suit of the Consul or any other person defraying such expenses, or at the suit of the East India Company, in case the same has been paid or allowed out of any monies belonging to the East India Company, and, if defrayed by the Seaman himself, may be recovered as wages due to him.

XIX. The obligations of the last two Sections shall not apply to such of the Crew as shall consent, in writing, before the British Consul or Vice Consul, or if there be no British Consul or Vice Consul at the port, before one or more resident Merchants not interested in the Vessel, to be then and there discharged.

XX. In all cases of wreck or loss of the Ship, every Seaman then on board shall be entitled to his wages up to the time of the wreck or loss, whether or not the Ship has earned freight; provided he shall produce, from the Master or Chief Surviving Officer of the Ship, a Certificate that he did his best to save the Ship, Cargo and Stores.

XXI. Every Seaman shall be entitled to receive an increase

of his wages for every day on which the allowance of provisions, which it was agreed he should receive, shall be reduced, at the rate of One Anna daily, while the reduction is not more than one-third of the quantity, and Two Annas daily, while the reduction is more than one-third: and these pecuniary allowances shall be recoverable as his other wages are.

XXII. No assignment or sale of Seaman's wages, salvage or prize money, made before the accruing thereof, nor any Power of Attorney expressed to be irrevocable, for the receipt of any Seaman's wages, salvage or prize money, shall be valid or binding on the party making the same; and any attachment, to be issued out of any Court, shall not prevent the payment of any Seaman's wages, salvage or prize money to him.

XXIII. Every such Vessel shall have always on board a sufficient supply of medicines, and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be, from time to time, issued by the Superintendent of the Indian Navy, with the approval of the Governor General of India in Council, and published in the *Government Gazettes* at Calcutta, Madras and Bombay; and, in default thereof, the Owner of the Vessel shall be liable to a penalty, not exceeding Two Hundred Rupees, and Five Rupees for every day during which such default shall wilfully continue.

XXIV. Whenever the Master, or any Officer or Seaman of any such Vessel shall receive any hurt or injury in the service of the Vessel, the expense of providing the necessary surgical and medical advice and attendance, with medicines, and for his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped, or other port agreed upon shall be defrayed, with the cost of his conveyance to such port, by the Owner of the Vessel, without any deduction on that account from the wages of such Master, Officer or Seaman; and, if paid by himself, may be recovered as part of his wages; and, if paid or allowed out of any monies belonging to the East India Company, may be recovered with full costs of suit as a debt due to the East India Company.

XXV. If any Vessel, on board of which there shall be any Seaman, who has received an advance under this Act, shall before going on the voyage for which such advance shall have been paid,

be destroyed or injured by fire, or other cause, so as to prevent her going on her then intended voyage, or if such voyage shall be discomfited at the beginning, or before the advance has been worked out, the Master, Owner or Agent of such Vessel may demand from such Seaman, unless he shall pay back the amount so advanced to him, service to the full amount of the advance received by him, on board of any other Vessel; and such Seaman, until he has worked out such advance, shall not be entitled, without the consent of such Master, Owner or Agent, to take service in any Vessel other than that on which he is so required to serve; and any such Seaman, who shall refuse to work out such advance on board such other Vessel, on summary conviction of his refusal before any Magistrate or Justice of the Peace, shall be liable to be imprisoned, with hard labour, for any term not exceeding six months.

XXVI. The Registrar of Seamen may grant, from time to time, to such persons as he may deem fit, a license to act as broker for procuring Seamen for Vessels shipping men under this Act, and also a license to the keeper of any lodging-house for Seamen, enabling him to allow Seamen to be engaged at his house, and also may revoke and annual such license on the misconduct of any such person: and every such license shall be granted for such term, upon such conditions and upon such security given, as the said Registrar shall, from time to time, appoint.

XXVII. Every person, not licensed as aforesaid, and not being the Owner, part Owner, Master, or person in charge of the Vessel, on board of which the men are to serve, who shall hire or engage a Seaman, to be entered on board any Merchant Ship, at any Port of Registry, and every person, whether licensed or not, other than the Ower, part Owner, Master, or person in charge of the Merchant Ship, on board of which the men are to serve, who shall demand or obtain the Register Ticket of any Seaman, for the purpose, or under the pretence of engaging him on board of any Merchant Ship, and every person, whether or not licensed as aforesaid, who shall ask or take, directly or indirectly, from any Seaman any fee, reward, or other valuable consideration, for hiring or engaging or endeavouring to hire or engage him on board of any Merchant Ship, shall be liable to a penalty, not exceeding Five Hundred Rupees.

XXVIII. Every licensed broker, who shall engage any Seaman at any punch-house or tavern, not being a licensed lodging-house for Seamen as aforesaid, or who shall be directly or indirectly interested in any punch-house or tavern not being a licensed lodging-house for Seamen as aforesaid, shall forfeit his license.

XXIX. 'Every person, who shall persuade or endeavour to persuade, or hinder any Seaman, from complying with any of the provisions of this Act, or who shall counsel such Seaman to desert, or who shall conceal, or aid in concealing or maintaining any Seaman, who has deserted, shall be liable to a penalty, not exceeding Five Hundred Rupees.

XXX. If a Seaman, engaged under this Act, shall at any time, whether before or during any voyage, neglect or refuse to join the Vessel, on board of which he shall have engaged to serve, or shall refuse to go to sea in such Vessel, or shall absent himself therefrom, without leave, or shall desert, any Justice of the Peace or Magistrate in the territories under the Government of the East India Company, at or near to the place where such Vessel shall happen to be, or where such Seaman shall be found, upon complaint made upon oath, by the Master, Mate or Owner, or his Agent, may issue his warrant, and cause such Seaman to be taken into custody, and brought before him: and upon due proof of such neglect, refusal, or absence, without reasonable excuse, or of desertion, may commit such Seaman to prison, or to the house of correction, there to be imprisoned, with or without hard labour, for a term not exceeding thirty days; or, if he shall think fit, at the request of the Master, Mate, or Owner, or his Agent, instead of committing such Seaman, may cause him to be taken on board the said Vessel, or to be delivered to the Master, Mate, or Owner, or his Agent, for the purpose of being so taken and going on the voyage; and also may award to the Master, or Owner, or his Agent, such costs incurred in the apprehension of the Seaman, as to such Justice or Magistrate shall seem reasonable, not exceeding, in any case, the sum of Twenty Rupees, which shall be chargeable against, and may be deducted from the wages of such Seaman.

XXXI. Every Seaman, engaged under this Act, who, during the term of his service, shall wilfully, and, without leave, absent himself from the Vessel, or otherwise from his duty, shall, (in all

cases, not of desertion, or not treated as such by the Master), forfeit, out of his wages, the amount of two days' pay, and for every twenty-four hours of such absence the amount of six days' pay, or, at the option of the Master, the amount of such expenses as shall have been necessarily incurred in hiring a substitute; and every Seaman, who, while he shall belong to the Vessel, shall, without sufficient cause, neglect or refuse to perform his duty reasonably required of him by the Master, or other person in command of the Vessel, shall be subject to a like forfeiture, in respect of every such offence, and of every twenty-four hours' continuance thereof; and every such Seaman, who, after the Vessel's arrival at her port of delivery, and during the term of his service, shall leave the Vessel without a discharge or leave from the Master, shall forfeit one month's pay out of his wages: Provided always, that no such forfeiture shall be incurred, unless the fact of the Seaman's absence, neglect, or refusal shall be duly entered in the Log Book, the truth of which entry the Owner, Master, or Agent, in all cases of dispute, shall be bound to substantiate, by the evidence of the Mate, or some other credible witness.

XXXII. Every Seaman engaged under this Act, who shall desert his Vessel, shall forfeit to the Owner all his clothes and effects which he may leave on board, and also all wages and emoluments to which he might otherwise be entitled; provided always, that every desertion be entered in the Log Book at the time, and certified by the signatures of the Master and the Mate, or the Master and one credible witness.

XXXIII. If any Seaman shall desert, during the term for which he has engaged to serve, in any place beyond the Port where he was engaged, and the Master of the Vessel shall engage a substitute at a higher rate of wages than that stipulated in the agreement, to be paid to the Seaman so deserting, the Owner, Agent, or Master of the Vessel, shall be entitled to recover from the Deserter, by summary proceeding, in the same manner as penalties are by this Act made recoverable, (so far as the same can be applied), any excess of wages or portion thereof which such Owner, Agent or Master shall pay to such substitute, beyond the amount which would have been payable to the Deserter, if he had duly performed his service: Provided always, that no

Seaman shall be imprisoned longer than three calendar months for non-payment of any such excess of wages.

XXXIV. The absence of a Seaman from his Vessel, for any time within twenty-four hours immediately before the sailing of a Vessel from any port, whether before or during any voyage, wilfully or knowingly, without leave, or the wilful absence of a Seaman from his Vessel, at, or for any time, without leave, and in such manner as to shew an intention to abandon his Vessel and not return thereto, shall be deemed desertion.

XXXV. Every person, who shall wilfully harbour or conceal any Seaman or Apprentice, who shall have deserted, knowing or having reason to believe such Seaman or Apprentice to be a Deserter, shall, for every such Seaman or Apprentice so harboured or concealed, be liable to a penalty, not exceeding One Hundred Rupees.

XXXVI. No debt, exceeding in amount Three Rupees, incurred by any Seaman after he shall have engaged to serve under this Act, shall be recoverable until the service agreed for shall be ended; nor shall any keeper of a public-house, or of a lodging-house for Seamen, be entitled to detain any chest, tools, or other property of any Seaman, for any debt alleged to have been contracted by him; and in case of such detention of the chest, tools, or other property of a Seaman, any Justice of the Peace or Magistrate at or near the place, upon complaint upon oath to be made by such Seaman, or by any person on his behalf, may enquire into the matter upon oath in a summary way; and, by warrant under his hand and seal, may cause such property to be seized and delivered over to such Seaman; and the person so detaining the same shall be liable to a penalty, not exceeding One Hundred Rupees.

XXXVII. Any Justice of the Peace or Magistrate, within the territories subject to the East India Company, upon complaint made by any three or more of the Crew of any such Vessel, shall survey and examine, or cause to be surveyed and examined, the provisions, water, and medicines, put or supplied on board of the Vessel, for the use and consumption of the Crew; and, if on such survey and examination, it shall be found that such provisions, water, or medicines, are of a bad quality or unfit for use; or not such as should be provided, or there shall

not appear to be a sufficient quantity thereof, the Surveying Officer shall signify the same, in writing, to the Master of the Vessel; and, if such Master shall not thereupon provide other fit provisions, water, or medicines, instead of any which may be signified by the said Surveying Officer to be of a bad quality or unfit, or if any such Master shall not thereupon procure the needful quantity of provisions, water and medicines, or shall issue to the Crew any provisions, water, or medicines, which shall have been signified by the Surveying Officer to be of a bad quality, or unfit, he shall, in each of such cases, be liable to a penalty, not exceeding Five Hundred Rupees.

XXXVIII. A place of shelter shall be provided below a well caulked and substantial deck, for the men engaged under this Act, large enough to allow four superficial feet for every man; and if the place allotted be under the Top-gallant Forecastle, such Forecastle deck shall be not less than four feet six inches above the one below it; and in default thereof every man who is unprovided with such adequate shelter shall be entitled to have an increase of his wages, at the rate of Four Annas daily, while he is so unprovided, which shall be recoverable as his other wages are.

XXXIX. All penalties, directed by this Act, may be imposed on summary conviction before a Magistrate or Justice of the Peace, and may be recovered, with costs, as if they were imposed by a Magistrate under Act II. 1839.

XL. All claims for wages or forfeitures due and incurred under the agreements entered into under this Act, may be heard and determined by any Justice of the Peace or Magistrate; and the amount with costs, awarded by such Justice or Magistrate; shall be recovered from the party against whom the award is made, in the same manner as fines levied under the provisions of Act II. 1839.

XLI. Every person having the charge or command of any Vessel sailing under this Act shall be deemed to be the Master of such Vessel, within the meaning of this Act, and every other person (Apprentices excepted) who shall be employed or engaged to serve in any capacity on board, except as Surgeon, shall be deemed to be a Seaman, within the meaning of this Act; and the term "Owner" shall be deemed to comprehend all the several

persons, if more than one, to whom the Vessel belongs, and the term "Agent" shall be deemed to comprehend all the several persons, if more than one, who are Agents of the "Owner."

SCHEDULE (A.)

An Agreement made pursuant to an Act passed by the Governor General of India in Council and numbered No. XXVIII. of 1850, between the Master of the Ship of the Port of and of the burden of Tons, and the several persons whose names are set hereto on behalf of themselves and others shipped on board the said Ship within the territories under the Government of the East India Company.

It is agreed by, and on the part of the said persons, and they severally hereby engage to serve on board the said Ship in the several capacities against their respective names expressed [or from the day of to the day of both inclusive] *(where the intended voyage is to be described as nearly as can be done and the places at which it is intended the Ship shall touch, or, if that cannot be done, the nature of the voyage in which she is to be employed;)* and the said Crew further engage to conduct themselves in an orderly, faithful, honest, careful and sober manner, and to be, at all times, diligent to their respective duties and stations, and to be obedient to the lawful commands of the Master, in every thing relating to the said Ship, and the Materials, Stores and Cargo thereof, whether on board such Ship, in boats or on shore, in consideration of which services, to be duly, honestly, carefully and faithfully performed, the said Master doth hereby promise and agree to pay to the said Crew, by way of compensation or wages, the amount against their names respectively expressed. And it is hereby agreed, that any embezzlement, or wilful or careless loss or destruction of any part of the Ship's Cargo or Stores, shall be made good to the Owner out of the wages (so far as they will go) of the Seaman guilty of the same; and if any Seaman shall have entered himself as qualified for a duty for which he shall prove unfit he shall be liable to a reduction of the rate of wages hereby agreed for in proportion to his unfitness. In witness whereof the said parties

have hereto set their names, on the days against their respective signatures mentioned.

No. and date of Ship's Register.	Place and time of Entry.			Men's names set forth at full length.	Number of Register Ticket.	Name of the Ship in which the Seaman last served.	Age.	Town or Country where born or place of birth.	Caste or profession.	Amount of Wages per calendar month, Share or Voyage.	Amount of Wages advanced at time of Entry.	Amount of monthly allotment.	Quantity and quality of Provisions per day.	Signature.	Witnesses' signature.
	Day.	Month.	Year.												

hereby declare the truth of all the particulars set forth in this Agreement made at the Port of ( )
this day of 18

Master.
Mate

SCHEDULE (B.)

Ticket of allotment of wages by a registered Seaman at the Port of I registered Number now serving as on board the Vessel at monthly wages of Rupees, hereby authorize and request the Registrar of Seamen at to receive from the Agents of the one-third of my monthly wages as they become due, after I shall have served the time for which I have received advance, which time will expire on the day of next, and I hereby authorize the Registrar to pay the same to my or the person holding this paper, taking his or their receipt, monthly, on the back hereof.

CRIMINAL LAW.—POISONING.

ACT No. XXIX. OF 1850.

[*Passed on the 2nd August*, 1850.

1. *Administering any poison, or stupifying or intoxicating drug or unwholesome thing, with intent to do bodily harm or with intent to commit an unlawful Act, subject to transportation or imprisonment.*

2. *Under a charge with intent to murder, offender may be convicted of minor offence under the Act.*

3. *Act to be construed as part of Act* 31, 1838.

An Act to amend Act XXXI. 1838 for the Prevention of Poisoning.

For amendment of Act XXXI. 1838, relating to the administration of poison, or other deleterious substance, It is enacted as follows:

I. Whoever shall wilfully and maliciously administer to, or cause to be taken by any person, any poison, or any stupifying, or intoxicating drug, or any unwholesome thing, with intent in any of the cases aforesaid to do any permanent, or temporary bodily harm to such person, or with intent to commit, or abet the commission of any unlawful act, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

II. In any case in which any person shall be charged with administering to, or causing to be taken by any other person any poison, or other destructive thing with intent to commit murder, and the offence proved shall amount only to an offence under this Act, he may be punished as if he had been charged with an offence under this Act.

III. This Act shall be construed with and as part of Act XXXI. 1838.

PLEADERS.—APPEALS.

ACT No. XXX. OF 1850.

[*Passed on the 9th August*, 1850.

1. *Act* 1, 1846 *not to apply to private agreements between parties and pleaders.*

2. *Act* 4, 1850 *as to time for presenting petitions of appeal not to apply to cases decided before the Act.*

3. *Notice under Act* 4, 1850 *may be given by affixing on Court-House.*

4. *Act* 4, 1850 *not to affect appeals by Paupers, &c. except, &c.*

An Act to remove doubts on the Constuction of Act I. 1846, and Act IV. 1850.

Whereas doubts have been entertained whether or not the operation of Act I. 1846, Section VIII. and of Act IV. 1850, Section I. is retrospective, It is declared and enacted as follows:

I. The provisions of Act I. 1846 shall not be deemed to apply to private agreements between parties and their pleaders made before the passing of the said Act.

II. The time allowed for the presentation of petitions of regular appeal in cases appealable to the Sudder Court, in cases decided before the passing of Act IV. 1850, is three months, instead of six weeks, as provided for the future by the last mentioned Act: and all appeals filed before the passing of this Act in such cases within the said term of three months shall be taken to have been presented in due time, and shall be subject to all the forms and rules in force previous to the passing of Act IV. 1850.

III. The notice, required by Section II. of the last mentioned Act to be given in writing to the appellant, may be given by a notice to be affixed in the Court House of the Sudder Dewanny Adawlut, or in such form and manner as the Court shall order, by a rule to be framed under Act XVII. 1841.

IV. Act IV. of 1850 shall not affect appeals by Paupers, which shall be preferred in all respects as heretofore, excepting that the specific objections to the judgment and detailed reasons for preferring the appeal, may be presented within three months instead of six weeks from the date of permission to appeal as a Pauper.

BOMBAY.—SALT REVENUE.

ACT No. XXXI. OF 1850.

[*Passed on the 9th August*, 1850.

1, 2. *Customs duty to be levied on salt from foreign territories equal to excise duty; and (2) leviable in same manner as other customs duties.*

3, 4. *Passing salt contrary to this Act, to be punished with fine or imprisonment or both; and (4) salt attempted to be passed to be forfeited.*

5. *Governor of Bombay, &c. may reward informers.*

6, 7. *New salt works not to be established nor old ones re-opened without permission of Government, and (7) Government may suppress any salt works not producing more than certain quantity.*

8. *Sec. 7, Act 27, to apply to any tracts of country where salt is found.*

An Act for protecting the Salt Revenue in Bombay.

Whereas it is expedient to provide for the better protection of the salt excise revenue, and to bring under control the right of opening or continuing salt works within the Presidency of Bombay, It is enacted as follows:

Repealed by VII of 61.

I. ~~A duty of customs shall be levied on salt, passing by land into or out of foreign European Settlements, or Territories declared to be foreign under Section VIII. Act I. 1838, at the same rate as the excise duty leviable on salt within the territories subject to the Presidency of Bombay.~~

II. The said duty of customs shall be levied in the same manner and under the same rules and restrictions, and subject to the same penalties, as is prescribed for the levy of duties of customs on goods imported and exported by land by Act I. 1838.

III. Any person who shall be concerned in passing salt, either by land or sea, contrary to the provisions of this or any other Act, shall be punishable with imprisonment for a term not exceeding three months, or fine not exceeding Five Hundred Rupees, or both.

IV. All salt passed, or attempted to be passed or removed, contrary to the provisions of this or any other Act, and all vessels, carriages and animals used in so passing or removing such salt, and the contents of any package in which such salt may be concealed, shall be liable to confiscation at the discretion of the Governor of Bombay in Council, but may be redeemed on payment of such fine as the Governor in Council, or any Officer or Officers of the Revenue Department to whom the Governor in Council shall think fit, from time to time, to delegate this power, may think reasonable.

V. The Governor of Bombay in Council, or any Officer or Officers of the Revenue Department to whom the Governor in Council shall think fit, from time to time, to delegate this power, may reward informers and other persons through whose means any seizure of salt is made under this or any other Act, out of

the proceeds of any such confiscation or of the fine paid in redemption thereof.

VI. No new salt works shall be established, and no old works not in use at the time of passing this Act, or which shall hereafter be abandoned during three consecutive seasons, shall be reopened, within the territories subject to the Presidency of Bombay, without the permission of the Governor of Bombay in Council; and any person who shall infringe these prohibitions shall be punishable with imprisonment for a term not exceeding three months, or fine not exceeding Five Hundred Rupees, or both.

VII. The Governor of Bombay in Council may at his discretion suppress any salt work which, on an average of any three years, does not produce yearly at least five thousand Indian maunds of salt.

VIII. Sec. VII. Act XXVII. 1837, shall be applicable to any tracts of country where salt is found.

SUBATHOO AND ANNEXED TERRITORIES.

ACT No. XXXII. OF 1850.

[*Passed on the 16th August*, 1850.

Repeals Act 15, 1836.

An Act to repeal Act XV. 1836.

Whereas the reasons for which Subathoo and the other territories annexed thereto were placed under the control in civil cases of the Court of Sudder Dewanny Adawlut, then at Allahabad and now at Agra, no longer exist, It is enacted as follows:

I. Act XV. 1836 is repealed: except as to all cases and proceedings which at the time of the passing of this Act shall be under consideration by the said Court, which shall be decided, and the orders passed thereon shall be executed, as if this Act had not passed.

BENGAL.--PUTNEE TENURES SALES.

ACT. No. XXXIII. OF 1850.

[*Passed on the 23rd August*, 1850.

Recites R. 8, 1819, *S.* 8, *Cl.* 2.

1. 2. *Enacts, Zemindar in future to present petition to Collector and not to*

Civil Court and (2) *all sales of Putnee Tenures without petition to Civil Court, to be valid, if no proceeding for reversal commenced, &c.*

3. *Putneedar may recover from Zemindar compensation for loss through irregular sales hereby made valid*

An Act for amending the forms necessary for the sale of Putnee Tenures in Bengal.

Whereas by Clause 2, Section VIII. Regulation VIII. 1819, of the Bengal Code, it is provided that Zemindars shall be entitled in certain cases to apply for the sale of putnee tenures on which the right of sale for an arrear of rent is reserved, by presenting a petition to the Civil Court of the district, and a similar one to the Collector, and whereas the petition to the Civil Court has not been presented previous to many of such sales, and it is not necesssary for protection of the putneedar, It is enacted as follows:

I. After the passing of this Act, it shall not be necessary for the Zemindar in any such case to present a petition to the Civil Court, but a petition to the Collector shall be sufficient.

II. All sales of putnee tenures before the passing of this Act, which were held without presenting such petition to the Civil Court, and for the reversal of which no suit was commenced before the Fourth day of April in the year 1850, shall be deemed as valid as if such petition to the Civil Court had been presented.

III. Every putneedar whose tenure shall have been sold before the passing of this Act without such petition having been presented to the Civil Court, and the sale of which is hereby declared valid, shall be entitled to recover in a suit against the Zemindar or person at whose instance the sale has been effected, or his representatives, the amount of any actual loss or damage sustained by such putneedar, by reason only of such sale having been made without the presentation of such petition to the Civil Court.

STATE PRISONERS.

ACT No. XXXIV. OF 1850.

[*Passed on the 23rd August*, 1850.

Recites doubts as to construction of Bengal R. 3, 1818, *and expediency of extending Reg. to all India.*

1. *Enacts any warrant of commitment under R.* 3, 1818, *may be addressed to Supreme Court gaol-keeper or any other gaol-keeper, &c.*

2, 3. *R.* 3, 1818, *extended to every Sheriff, &c. having any State Prisoner in custody, &c. and (3) commitments under warrant of G. G. in C. to be held valid.*

An Act for the better Custody of State Prisoners.

Whereas doubts have been entertained whether State Prisoners confined under Regulation III. 1818, of the Bengal Code, can be lawfully detained in any fortress, gaol, or other place, within the limits of jurisdiction of any of the Supreme Courts of Judicature, established by Royal Charter, and it is expedient that such doubts be removed, and the powers of the said Regulation extended to all the territories under the Government of the East India Company, It is enacted as follows:

I. The warrant of commitment of any State Prisoner, under Regulation III. 1818, of the Bengal Code, may be directed to the Sheriff of the gaol of any of the Supreme Courts of Judicature established by Royal Charter in the said territories, or to the Commandant of any fortress, or to the Officer in charge of any gaol or other place, in which it is deemed expedient that such State Prisoner be confined, in any part of the said territories; and such warrant shall be sufficient authority for the detention of such State Prisoner in the fortress, gaol or other place mentioned in the warrant.

II. Regulation III. 1818, of the Bengal Code, shall be extended and applied to every Sheriff, Commandant or Officer, having any State Prisoner in custody, under the said Regulation, as explained and extended by this Act.

III. Any State Prisoner, now confined under any such warrant within the jurisdiction of any of the said Supreme Courts, under the warrant of the Governor General in Council, shall be deemed to have been lawfully committed thereunto.

BOMBAY FERRIES.

ACT No. XXXV. OF 1850.

[*Passed on the 6th September*, 1850.

1, 2, 3. *Governor of Bombay in Council may declare which ferries shall be public ferries, may establish new ferries; and (2) fix tolls for such ferries; but (3) none leviable on Soldiers on their march.*

4, 5, 6, 7, 8. *G. in C. to provide boats, &c. for ferries; and (5) at every ferry a toll collector shall be established; and (6) at every station table of tolls*

shall be hung up; and (7) toll keeper liable to penalty for neglecting to hang-up table, &c. or (8) who shall ask, &c. higher toll than legal.

9. *Any person crossing ferry and refusing to pay toll, liable to penalty.*

10. *Public ferry-boats to be numbered, &c.*

11. *Magistrate, &c. may make rules for the regulating of ferries; and ferry-men liable for damage, &c. incurred by reason of breach of rules.*

12. *G. of B. in C. may lease public ferry.*

13. *Ferry-boat between Bombay and main-land to cross at least once daily.*

14. 15. *Unlicenced persons ferrying for hire between Bombay and the main-land, &c. to be liable to penalty, &c. and (15) ferrying for hire to any place within three miles of public ferry without licence, to be liable to penalty.*

16. *Offences against this Act to be heard summarily by Magistrate, &c. and penalties to be recovered in same manner as fines.*

17. *Ferry tolls to be applied first to keep up ferries and surplus to roads, &c.*

18. *G. of B. in C. to appoint necessary Officers to carry Act into execution.*

An Act for regulating the Bombay Ferries.

Whereas it is expedient to regulate the Public Ferries within the territories subject to the Presidency of Bombay. It is enacted as follows:

I. The Governor of Bombay in Council may declare by Proclamation what Ferries within any part of the territories subject to the Presidency of Bombay, shall be deemed Public Ferries, and at any time hereafter, by a like Proclamation, may establish new Ferries where they are needed, and, from time to time, change the course of any Public Ferry, or discontinue any Public Ferry that is deemed unnecessary.

II. Tolls according to such rates as shall, from time to time, be settled or approved by the Governor of Bombay in Council, shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise carried over any Public Ferry.

III. No tolls shall be leviable from any body of Soldiery on their march.

IV. Boats shall be provided under the authority of the Governor of Bombay in Council for each Public Ferry, and Tindals, Boatmen and other persons shall be appointed for their due navigation.

V. At every Public Ferry-station a Toll-keeper shall be appointed with a sufficient Establishment, whose duty it shall be to take the lawful tolls.

VI. A Table of Tolls, written or printed in the English and

Native Languages, shall be hung up in some conspicuous place at every Ferry-station, so as to be easily read by all persons crossing the Ferry.

VII. Every Toll-keeper, who shall neglect to hang up and keep in good order and repair such Table of Tolls, or who shall wilfully remove, alter, or deface the same, or allow it to become illegible, shall be liable to a penalty not exceeding Ten Rupees.

VIII. Every Toll-keeper, who, shall ask or take any toll other than is allowed by the Table of Tolls, or who shall wilfully delay any passenger, cart, carriage, animal or goods, shall be liable to a penalty not exceeding Fifty Rupees.

IX. Every person crossing at any such Public Ferry, who shall refuse to pay the toll, or who, with intent of avoiding payment thereof, shall fraudulently or forcibly pass by or through any Toll-station without paying the toll, or who shall obstruct any Toll-keeper or any of his Assistants, in any way in the execution of their duty under this Act, and also every person who shall maliciously damage any Toll-bar, Boat, or any other thing employed in or about any Public Ferry, or who shall maliciously remove, alter, destroy or damage any Table of Tolls hung up as hereinbefore directed, shall be liable to a penalty not exceeding Fifty Rupees over and above the value of the damage which he has done.

X. All Public Ferry-boats shall be numbered and registered as the Governor of Bombay in Council shall direct, and the names of all Tindals, or persons placed in charge thereof, and of all Toll-keepers, shall likewise be so registered.

XI. The Magistrate of every Zillah in which there shall be a Public Ferry, and any Magistrate of Police of Bombay, whom the Governor of Bombay in Council may appoint for such purpose within their respective jurisdictions, shall make Rules, subject to confirmation by the Governor in Council, fixing the number of passengers, carts, carriages and animals, and the quantity of goods that may be carried in any public Ferry-boat at one trip, and for the safe and convenient carriage of passengers and property, and for keeping the Ferry-boats in good order, and otherwise for the due discharge of their duty by all Tindals, Toll-keepers and other persons employed at any Public Ferry, and any Tindal, Toll-keeper or other person infringing or dis-

obeying any such Rule, shall be liable to make good any loss or damage which shall have been caused thereby, which may be summarily ascertained by any Magistrate within whose jurisdiction the offence was commited, and the amount thereof may be recovered as any penalty under this Act may be recovered.

XII. The Governor of Bombay in Council may lease any Public Ferry by public auction, or private contract, from year to year, or any longer period not exceeding seven years, on such conditions as he deems advisable, in which case a contract setting forth the conditions on which the Ferry is to be held, shall be executed by the Contractor or Farmer, and security shall by him be given for its due fulfilment.

XIII. The Ferry-boat at any Public Ferry which shall be established between the Island of Bombay and the Main-land, and adjacent Islands, shall cross each way at least once daily unless hindered by stress of weather or other unavoidable accident.

XIV. Every person who, without the special licence of the Governor of Bombay in Council, shall convey for hire any passenger, animal, cart, carriage or goods, from any part of the Islands of Bombay and Colaba across the Harbour of Bombay to the Main-land, or to any of the adjacent Islands, shall be liable to a penalty not exceeding Five Hundred Rupees; but this penalty shall not apply to the carriage for hire of passengers, animals, carts, carriages and goods from one part of the Islands of Bombay and Colaba to another part of either of the said Islands, nor to any person specially hiring any boat for the carriage of himself and family, or friends with their goods and servants across the Harbour of Bombay to the Main-land, or any of the adjoining Islands, nor to the person letting any boat to hire for such purpose.

XV. Every person who shall convey for hire any passenger, animal, cart, carriage or goods across any other arm of the sea, creek or river within the said Presidency, to any point or place on the opposite bank or coast within a distance of three miles on either side above or below any Public Ferry, without the special licence of a Magistrate of the Zillah or Town in which the Ferry is situated, shall be liable to a penalty not exceeding Five Hundred Rupees.

XVI. All offences against this Act shall be smmmarily heard and determined by the Magistrate of the Zillah within the limits of which the same shall have been committed, and if within the limits of the jurisdiction of the Supreme Court of Bombay by any Magistrate of Police of Bombay. All penalties shall be recovered in the manner directed for the recovery of the fines specified in Clauses 1, 2 and 3, Section XIV., Regulation XIX. 1827, of the Bombay Code.

XVII. All tolls payable on account of any Public Ferry, and all rent payable on account of them as are farmed, and all penalties for offences against this Act, shall form a general Fund which shall be applied, in the first instance, toward the expenses necessary for keeping up all the Ferries throughout the Presidency of Bombay, and the residue, if any, shall be applied under the directions of the Governor of Bombay in Council, in the improvement of the public roads, ways, thoroughfares, leading to and from any of the said Ferries.

XVIII. The Governor of Bombay in Council may appoint such Officers and other persons as shall be necessary for carrying this Act into execution, with such salaries as the Governor General of India in Council shall approve, to be paid out of the Fund produced by the Tolls and Fines as provided by this Act, and the Governor of Bombay in Council may, from time to time, delegate any of the powers conferred on him by this Act to any Magistrate or other person as he thinks fit.

ARTICLES OF WAR.—NATIVE ARMY.

Repealed by XXIX of 1861

ACT No. XXXVI. OF 1850.

[*Passed on the 4th October*, 1850.

1. *Repeals part of* 113*th Art. of War.*

2. *No Native Officer, &c. entitled to pay or allowance while under sentence, but shall be clothed and fed according to rates, &c.*

An Act to amend the 113th Article of War for the Native Army.

Whereas it is expedient that Native Soldiers, when imprisoned, should be treated as European Soldiers are in the like case, as respects subsistence and clothing, It is enacted as follows:

I. From and after the First day of December 1850, so much

of the 113th Article of War for the government of the Native Officers and Soldiers in the Military Service of the East India Company as provides for the forfeiture of allowances, and the subsistence of such Officers and Soldiers, when in imprisonment under the sentence of any Court Martial or of any Court of Criminal Judicature, is repealed.

II. From and after the said First day of December 1850, no Native Officer, or Soldier, or public Follower in the Military Service of the East India Company shall be entitled to pay or allowances, when imprisoned under the sentence of a Court Martial or a commuted sentence, or under the sentence of a Court of Criminal Judicature; but shall be clothed and subsisted at such rates, or in such manner, as the Governor General of India in Council may from time to time order.

BENGAL. MADRAS. BOMBAY.—JUDICIARY.

ACT No. XXXVII. OF 1850.

[*Passed on the* 1*st November*, 1850.

1. *Repeals Acts* 6, 1838; 26, 1839; 13, 1843.

2. *Inquiries ordered by Government into conduct of public servants to proceed on formal charges.*

3. *To whom the inquiry may be committed.*

4. *Government to appoint some person to conduct its prosecution.*

5, 6. *Charges by private accuser to be reduced to writing, and verified by oath, &c. and* (6) *private prosecutor may be required to give security to prosecute charge and to be forthcoming to meet counter-charge.*

7. *Government may abandon its prosecutions and give leave to private accuser to continue them, on giving security.*

8, 9. *Commissioners under this Act to have the like powers to punish contempts and summon witnesses as Courts of Justice, and* (9) *persons disobeying their process to be liable to penalties, &c.*

10. *A copy of charges and list of documents and witnesses to be delivered to accused before commencement of inquiry.*

11. *Articles of charge to be exhibited to the Commissioners; accused to plead to each of them, or in default to be taken to admit truth of them.*

12, 13. *Prosecutor to speak on the charges, &c.* (13) *Evidence next to be taken, by examination and cross examination of witnesses.*

14. *Prosecutor by leave of Court may call witnesses not in his list, &c.*

15, 16, 17. *Case for prosecution being closed, accused shall make his defence,*

orally or in writing, &c. and (16) *then exhibit his evidence and examine his witnesses, &c.* (17) *either on oath or solemn affirmation, and be himself a witness.*

18. *Commissioners to take notes of the evidence and have them read to witnesses.*

19. *If accused puts in evidence a written defence, the prosecutor to have a reply and give evidence to contradict, &c.*

20, 21, 22. *Commissioners may order charges to be amended for want of clearness, &c. and adjourn inquiry for specified reasons, and* (21) *at end of proceedings, report to Government, and* (22) *Government on consideration of report may make order, for further evidence to be taken, &c.*

23. *Explains meaning of word "Government" in this Act.*

24, 25. *Act not to repeal any Act, &c. regulating suspension or dismissal of P. S. Ameens, &c. nor* (25) *the authority of Government to suspend, &c. any public servant.*

For regulating Inquiries into the behaviour of Public Servants.

Whereas it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable without the sanction of Government, and to make the same uniform throughout the territories under the Government of the East India Company, It is enacted as follows:

I. The following Acts VI. 1838, XXVI. 1839, and XIII. 1843, are repealed, but not so as to revive any Act or Regulation, or part of any Act or Regulation thereby repealed.

II. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company not removable from his Office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct Articles of Charge, and shall order a formal and public inquiry to be made into the truth thereof.

III. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government Commissioners for the purpose: notice of which Commission shall be given to the person accused ten days at least before the beginning of the inquiry.

IV. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

V. When the charge shall be brought by an accuser, the

Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury: but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

VI. Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Goverment before appointing the commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or prejury or subornation of perjury, as the case may be.

VII. At any subsequent stage of the proceedings, the government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

VIII. The Commissioners shall have the same power of punishing contempts and obstructions to their proceedings, as is given to Civil and Criminal Courts by Act XXX. 1841, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the Commission, and shall be entitled to the same protection as the Zillah and City Judges except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the Zillah or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature there. When the Commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the Commission.

XI. All persons disobeying any lawful process issued as aforesaid for the purposes of the Commission shall be liable to the

same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

X. A copy of the Articles of Charge, and list of the documents and witnesses by which each charge is to be sustained shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery, and the first day of the inquiry.

XI. At the beginning of the inquiry, the prosecutor shall exhibit the Articles of Charge to the Commissioners, which shall be openly read, and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the Articles of Charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his Counsel or Agent, he shall be taken to admit the truth of the Articles of Charge.

XII. The prosecutor shall then be entitled to address the Commissioners in explanation of the Articles of Charge, and of the evidence by which they are to be proved: his address shall not be recorded.

XIII. The oral and documentary evidence for the prosecution shall then be exhibited: the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the Commissioners, who also may put such questions as they think fit.

XIV. If it shall appear necessary before the close of the case for the prosecution, the Commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjourment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

XV. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if

made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

XVI. The Evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the Commissioners according to the like rules as the witnesses for the prosecution.

XVII. All witnesses, either for the prosecution or defence, shall be examined on oath, or, if exempt from taking an oath in Courts of Justice, on solemn affirmation, to be administered in either case by one of the Commissioners, and every witness so examined and wilfully giving false evidence on any material point shall be deemed guilty of and liable to the penalties of perjury. When the prosecution is not conducted on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.

XVIII. The Commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

XIX. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also, exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

XX. When the Commissioners shall be of opinion that the Articles of Charge, or any of them, are not drawn with sufficient clearness and precision, the Commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the

Commissioners shall record the application, and their reasons for refusing to comply with it.

XXI. After the close of the inquiry, the Commissioners shall forthwith report to Government their proceedings under the Commission, and shall send with the record thereof their opinion upon each of the Artcles of Charge separately, with such observations as they think fit on the whole case.

XXII. The Government, on consideration of the report of the Commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional Articles of Charge to be framed, in which case the inquiry into the truth of such additional Artcles shall be made in the same manner as is herein directed with respect to the original charges. When Special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

XXIII. The word 'Government' as used in this Act means the Governor General in Couucil, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay, respectively, and the Lieutenant Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

XXIV. Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sudder Ameens or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the said Officers, under this Act, in any case in which the Government shall think it expedient.

XXV. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

Repealed by XVII of 1862

ACT No. XXXVIII. OF 1850.

[*Passed on the 1st November*, 1850.

Recites expediency of extending the privilege given by Act 22, 1839, *to prisoners under trial in East India Company's Courts.*

1, 2. *Enacts, In all Courts, &c. of East India Company every person on trial may make defence either personally or by agent;* (2) *subject to rules made by Nizamut Adawlut, &c.*

3. *This Act not to restrict any existing right as to employing Counsel or Pleader; but in general only Advocates of Supreme Court or authorized Pleaders to be employed as agents for making defence, &c*

4. *Presence of prosecutor or accused not to be deemed dispensed with by this Act.*

An Act to allow Counsel to all persons on the trial of offences.

Whereas an Act of Parliament was passed in the seventh year of the reign of His late Majesty for enabling persons indicted of felony to make their defence by Counsel or Attorney, the provisions of which Act were enlarged and extended to Her Majesty's Courts of Justice in the Territories under the Government of the East India Company by Act XXII. 1839, and whereas it is just and reasonable that the like privilege be given to all persons on the trial of offences against the law, It is enacted as follows:

I. In all Courts and before all Magistrates, or persons exercising any of the powers of a Magistrate, under the authority of the East India Company, every person on trial for the commission of any offence shall be admitted to defend himself either personally or by his authorized agent, and, after the close of the case for the prosecution, to make full answer and defence thereto either personally or by his authorized agent.

II. The said Courts, Magistrates and persons, subject to such rules as shall be from time to time made for their guidance by the Nizamut or Fouzdaree Adawlut, may allow any prosecution to be conducted by an authorized agent.

III. In those Courts in which any person now has by law the right of employing whomsoever he can employ as Counsel or Pleader, nothing in this Act shall be deemed to restrict that right: in all other cases those persons only shall be deemed authorized agents within the meaning of this Act who are either

Advocates of one of the Supreme Courts of Justice established by Royal Charter, or authorized Pleaders of the Civil Courts of the East India Company, or, by leave of the Court, Magistrate or other person before whom the prisoner is on trial, any other person who is employed by the prosecutor or prisoner as his agent.

IV. This Act shall not be deemed to dispense with the presence of any prosecutor or person on trial for the commission of any offence when the presence of such prosecutor or accused person is now by law required.

CALCUTTA.—MUNICIPAL ACT.

ACT No. XXXIX. OF 1850.

[*Passed on the 22nd November*, 1850.

1. *Repeals part of Act* 16, 1847, *relating to the election of Commissioners, &c.*

2. *Continues the authority of existing Commissioners, with such addition to their number as Government may make, until* 1*st March* 1851, *or further legislative provision.*

To continue the Commissioners for the Improvement of the Town of Calcutta, pending the consideration of an Act to amend Act XVI. 1847.

Whereas Act XVI. 1847, for constituting Commissioners for the Improvement of the Town of Calcutta has been found inconvenient and ineffectual for the intended purposes thereof, and it is expedient that the constitution of the said Commission be amended, and that in the meantime no new election of Commissioners be made in pursuance of the said Act, It is enacted as follows:

I. So much of Act XVI. 1847, as relate to the election and time of holding office of the Commissioners for the Improvement of the Town of Calcutta, is repealed.

II. The Commissioners for the Improvement of the Town of Calcutta as now constituted, with the addition of such Commissioners as may be added, from time to time, to supply vacancies among the Commissioners nominated by the Governor of Bengal shall continue to be such Commissioners, and shall have and exercise all the powers entrusted to them under the said Act, or any other Act, until the First day of March 1851, or until other provision shall be made in that behalf by the Governor General of India in Council.

STRAITS SETTLEMENTS.—PAWNBROKERS.

ACT No. XL. OF 1850.

[*Passed on the 22nd November*, 1850,

Recites expediency of amending law regarding Pawnbrokers.

1. *Repeals R.* 7, 1830 *of G. of P. of W. Island, &c. and Bengal R.* 11, 1833.

2, 3. *Pawnbrokers to take out licence, for which a fee may be required, and licence may be suspended when Superintendent of Police thinks fit; and* (3) *no person to exercise the trade without a licence, and unlicenced person to be subject to a penalty.*

4, 5, 6. *Pawnbroker taking pledges between sunset and sunrise, and* (5) *taking pledge from European or Native soldier without leave of his Commanding Officer, and* (6) *taking pledge from child apparently under* 14 *years of age for loan to such child, to be liable to specified penalty.*

7, 8. *Pawnbrokers to report their place of residence to Superintendent of Police; and to give information of persons offering property under circumstances of suspicion, and to keep registers of all lower pledges, &c. and* (8) *to produce such registers when required to Js. P. &c.; and neglecting these duties to be subject to penalty.*

9. *Penalty may be imposed on conviction before* 2 *Justices, and levied by warrant against the goods of the offender, and in case no goods, offender may be imprisoned.*

10. *Act to take effect from* 1*st May*, 1851.

An Act for Licencing Pawnbrokers in the Settlements of Prince of Wales' Island, Singapore and Malacca.

Whereas it is expedient to amend the Law regarding Pawnbrokers in the Settlements of Prince of Wales' Island, Singapore and Malacca, It is enacted as follows:

I. Regulation VII. 1830, passed by the Governor of Prince of Wales' Island, Singapore and Malacca in Council, and Regulation XI. 1833, of the Bengal Code, are repealed from and after the first day of May 1851, except as to convictions and the enforcement of penalties for contraventions of the said Regulations.

II. Every Pawnbroker shall take out a Licence from the Superintendent of Police of the station or place at which his Shop is situated, for the grant and registration of which a Fee shall be paid to the Superintendent of Police, on account of Government, of such amount as shall be from time to time fixed by the Governor of the Straits Settlements; and every such Licence may be annulled, whenever the Superintendent of Police shall think fit.

III. No person shall exercise the trade of a Pawnbroker within the said Settlements, without a Licence; and every unlicenced person who shall take in pledge, or keep in deposit any Goods or Chattels as security for the loan of any sum of money under One Hundred and Fifty Dollars, shall forfeit for each offence a penalty not exceeding Fifty Dollars.

IV. Every Licenced Pawnbroker, who shall take any Goods or Chattels on pawn from any person, between sunset and sunrise on the following morning, shall forfeit a penalty not exceeding Fifty Dollars.

V. Every Licenced Pawnbroker, who shall knowingly take from any European or Native Soldier any article whatsoever, as a pawn, pledge or security for any sum of money lent or advanced to such Soldier, or who shall knowingly buy from any European or Native Soldier any article whatsoever, without an authority in writing in each case from the Commanding Officer of such Soldier, shall forfeit a penalty not exceeding Fifty Dollars.

VI. Every Licenced Pawnbroker, who shall take from any child, apparently under the age of fourteen years, any article whatsoever, as a pawn, pledge or security, for any sum of money lent or advanced to such child, or who shall buy from such child any article whatsoever, shall forfeit a penalty not exceeding Fifty Dollars.

VII. All Pawnbrokers are required to report to the Superintendent of Police of the station or place in which they severally reside, all cases in which there is reason for them to suspect any person offering any article to be pawned of having unlawfully obtained possession thereof: and the said Pawnbrokers shall keep proper Registers in writing, specifying the nature and value of every article pawned; the name and dwelling-place of the person pawning the same; the date and the hour of the day in which the same was offered and taken in pawn; the amount lent and the time within which the same is to be repaid; and shall give a duplicate of the entry in such Registers to the person pawning the article respecting which the entry is made, and in default thereof shall forfeit a penalty not exceeding Fifty Dollars.

VIII. All such Registers shall be produced for inspection by the said Pawnbrokers, whenever they shall be thereto required by any Justice of the Peace, Superintendent of Police, or any Peace

Officer; and any Pawnbroker failing to keep and produce his Registers when so required, shall forfeit his Licence, and also forfeit a penalty not exceeding Fifty Dollars.

IX. All penalties under this Act may be imposed on conviction of the offence by confession of the offender, or by the oath of one or more witnesses before two Justices of the Peace, and in case of nonpayment of any pecuniary penalty forfeited under this Act, any two Justices may issue a warrant under their hands, directed to any Peace Officer, to levy the amount of such penalty by seizure and sale of any goods of the offender which may be found within the jurisdiction of such Justices; and if no such property shall be found, any Justice of the Peace, by warrant under his hand, may commit the offender either to the House of Correction or to Her Majesty's Gaol at the station where the conviction is had, for any period not exceeding four calendar months.

X. This Act shall take effect from and after the first day of May 1851.

STRAITS SETTLEMENTS.

ACT No. XLI. OF 1850.

[*Passed on the 22nd November*, 1850.

Recites that inconvenience has arisen from decrepit persons being landed in the settlements.

1. *Captains, Commanders, &c. of Ships, &c. landing decrepit persons not having the means of subsistence on the Islands without leave, &c. to be liable on conviction to fine not exceeding* 100 *dollars.*

2. *Any two Justices may remove any person who has not resided one month in the settlement and has been begging or has become chargeable, to place from which he was brought to the settlement. Cost of removal to be paid by the Master of Ship who brought person to the settlement.*

3. *Captain, &c. of every vessel to deliver to Master Attendant a true list of all passengers on his vessel at time of arrival, on pain of forfeiting* 500 *dollars.*

An Act to prevent the landing and leaving of decrepit Beggars, in the Settlements of Prince of Wales' Island, Singapore and Malacca.

Whereas much public inconvenience has arisen by Masters of Ships and Nakodas of Junks and other Vessels landing and leaving in the Settlements of Prince of Wales' Island, Singapore and

Malacca, diseased, maimed, blind and decrepit persons who afterwards beg for subsistence in the public streets, It is enacted as follows:

I. From the first day of January 1851, all Captains, Commanders, Masters or Nakodas of Ships, Junks, Topes, Boats, Prahus or other Vessels, who shall bring and land, or cause to be brought and landed in any part of the Settlements of Prince of Wales' Island, Singapore and Malacca, or in any of the places now or hereafter to be subordinate or annexed thereto respectively without leave of the Superintendent of Police of such place, any diseased, maimed, blind or decrepit person, not having the means of subsistence, and who may be hindered by his or her diseased, blind or disabled state from earning a livelihood, shall, on conviction before two Justices of the Peace, be liable for every such offence, to pay a fine not exceeding One Hundred Dollars, and in default of payment, to be imprisoned for any period not exceeding two calendar months.

II. Any two Justices, upon the complaint of the Superintendent or other Officer of Police, that any such person, who has not resided one month in the Settlement, has been found begging or has become chargeable to the Settlement, may cause such person to be brought before them, and may examine such person and any other witnesses on oath or solemn affirmation touching the place from which he or she was brought to the said Settlement, and may cause any such person to be removed to the place from which he or she was so brought in such manner as shall be from time to time directed by the Governor of the said Settlements, and the reasonable cost of such removal shall be borne and paid by the Master of the Vessel by whom such person was brought to the Settlement, and may be sued for and recovered as so much money due from him to the East India Company, and paid by the Company on his account.

III. The Captain, Commander, Master or Nakoda of every such Vessel shall, within twenty-four hours of the arrival of the Vessel at any one of the said Settlements, deliver to the Master Attendant of the Port a true list of all the passengers embarked on board of his Vessel at the time of such arrival, specifying the name, nation and rank or condition in life of each; and every such Captain, Commander, Master or Nakoda who, without

reasonable excuse, shall neglect to deliver such list within the appointed time, or wilfully make out or deliver a list which is false or incomplete in any respect, shall, on conviction before two Justices of the Peace, be liable to pay a fine not exceeding Five Hundred Dollars, and in default of payment, to be imprisoned for any term not exceeding three calendar months.

BENGAL, MADRAS AND BOMBAY.—PUBLIC WORKS AND RAILWAYS.

ACT No. XLII. OF 1850.

[*Passed on the 20th December*, 1850.

Recites Bengal R. 1, 1824, *relating to taking land for public purposes.*

1. *Enacts. Any Railway made with sanction of Government to be a public work within R.* 1, 1824.

2. *Empowers persons making surveys for Railway, &c. to enter on, mark out the line, and with the sanction of Government Officer clear the land, but to enter the curtilage of any house only between sunrise and sunset.*

3. *Government Officer to estimate damage done in order that compensation may be made.*

4. *Persons wilfully obstructing survey, &c. liable to fine and imprisonment.*

5. *If Government Officer has recorded his opinion that land is needed, &c he may take possession thereof and value thereof, if not agreed upon, to be ascertained under R.* 1 1824; *and possession of land may be taken as of land sold under decrees in Civil Courts. &c.*

6. *Magistrate to aid Officer in obtaining possession of the land.*

7. *Powers of R.* 1, 1824, *to extend in case of railway, &c. to taking temporary possession of land* 100 *yards from centre of railway, &c. and erecting temporary buildings, &c. Compensation to be given for such temporary occupation, &c.*

8. *Local Government may empower any Officer to make awarza, &c. and settle disputes without reference to Government.*

9, 10, 11. *Land taken for public work otherwise than according to R.* 1, 1824, *to vest in E. I. C. after* 5 *years of non-claim, and* (10) *the* 5 *years how to be reckoned and* (11) *if right to the land is established, compensation or value to be paid for it.*

An Act for giving additional facilities for Public Works in Bengal.

Whereas, by Regulation I. 1824, of the Bengal Code, power was given for taking any land in the territories subject to the Presidency of Fort William in Bengal, which is needed for any

public purpose, according to the forms therein prescribed, but it is expedient for hindering needless delay in making the Railway about to be constructed in the said Presidency under the sanction of Government, and also in any other public work that more summary power should in certain cases be given for gaining immediate possession of the land needed for such public work.

It is declared and enacted as follows:

I. Any Railway made in the said territories under the sanction of Government, is a public work within the meaning of the said Regulation.

II. The persons employed in any public work, with their servants and workmen, may enter upon any land for surveying the ground, and in the case of a road, canal or railway for setting out the intended line thereof, and in the case of any intended road, canal or railway may mark the intended line by cutting a trench or placing landmarks along the line, and where otherwise the survey cannot be completed, and the line marked, may, with the sanction of the Government or of any officer appointed by Government for this purpose, cut down and clear away any part of any jungle or tope of trees in the direction of the intended line. Provided that no person shall enter the curtilage of any house under colour of this Act without consent of the occupier, unless between sunrise and sunset, and after due notice given to such occupier.

III. It shall be the duty of the officer so appointed by the Government to take account of all necessary damage done as aforesaid, that it may be allowed for, in awarding compensation to the owners and occupiers of land.

IV. Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal or railway, or wilfully destroys, damages, or displaces any such landmark, or effaces, or fills any such trench, shall be liable to be imprisoned for any term not exceeding six months, and also to fine not exceeding two hundred Rupees.

V. Whenever the said officer shall have recorded his opinion that the land in dispute is needed immediately for the purpose of the public work, he shall be empowered to take immediate possession thereof on behalf of the Government, leaving the amount and distribution of the consideration to be paid for it,

if not agreed to by private bargain to be afterwards ascertained according to the said Regulation, and such possession may be enforced and the obstruction of it punished in like manner as if the land so taken had been sold in execution of the decree of a Civil Court: and all Collectors, Magistrates and other officers shall, if necessary, give the like aid as they would be bound to give for enforcing the speedy and complete execution of any such decree.

VI. If the said officer is opposed or impeded in taking immediate possession of such land as in his opinion is immediately needed, he shall apply to the Magistrate of the district, who shall enforce the surrender of the land.

VII. The powers of the said Regulation and of this Act shall extend in the case of any road, canal or railway, to authorize the temporary occupation of any land not more than one hundred yards from the centre line of the road, canal or railway as marked on the ground, for taking earth or other materials for making or repairing the road, canal or railway, or for depositing thereon superfluous earth or other materials, or erecting temporary buildings and workshops thereon, or any land which may be needed for making temporary roads from any public road to the intended line of railway; and for the temporary occupation of any such land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay, stone, gravel, sand and other materials taken thence, compensation shall be paid to and among all persons having an interest therein, to be ascertained in case of disagreement in the same manner as compensation for land permanently taken.

VIII. The local Government, if it thinks fit, may empower any such officer to execute any award made under the said Regulation, and to do all things necessary for completing the business of taking and paying for the said land, and for settling all disputes concerning it, without sending any report to the local Government.

IX. In every case in which any land has been or shall be taken by the Government for any public work, otherwise than according to the said Regulation, such land after the lapse of five years, without any claim preferred for the recovery thereof in any competent Court, or under the said Regulation I. 1824, or

this Act, shall vest absolutely in the East India Company, freed and discharged from all other claims thereunto.

X. The said term of five years shall be reckoned from the date of this Act, in the case of land heretofore taken, and in the case of land hereafter taken from the time of taking possession thereof.

XI. If within the said term of five years any suit is begun upon which final judgment shall be obtained establishing the right of the plaintiff to any interest in any such land, then, instead of the said land, there shall be paid to the person obtaining such judgment the value of his interest in the said land, at the time when possession thereof was taken, with interest thereon at the usual and lawful rate, to be ascertained and settled in case of dispute by arbitration in the manner described for disputed claims by the said Regulation.

REGISTRATION OF JOINT STOCK COMPANIES.

ACT No. XLIII. OF 1850.

[*Passed on the 27th December*, 1850.]

1. *Defines the partnerships entitled to registration, viz., partnerships by deed whose joint stock is transferable in shares, without consent of all the partners, also literary and other specified societies not carrying on business for profit.*

2, 3. *Supreme Courts to order Registration, on Petition, and* (3) *Petition to be filed in Court with deed and list of Directors, Shareholders, &c. and petition to contain particulars specified in S.* 3 *and S.* 6.

4, 5. *Meeting of Shareholders to be held for purpose of resolving on registration, and* (5) *resolution to be passed by half the Shareholders present owning specified proportion of shares.*

6. *See ante* 3.

7. *On Registration of Company, Directors, &c. indebted to Company to cease to be Directors.*

8. *Prescribes general regulations for registered Companies independently of their deed; 1st, for holding general meetings; 2nd, for holding special meetings: 3rd, prohibits Companies purchasing or taking in pledge their own shares; 4th, prohibits loans, &c. to Directors, &c.; 5th, prohibits Directors, &c. being security to the Company; 6th, for auditing-accounts; 7th, for verifying and publishing audit.*

9. *Supreme Court may enforce duties of Directors, Secretary, &c.*

10, 11, 12. *Memorial to be filed annually, setting forth names of partners and other specified particulars; and* (11) *when several persons are interested in*

share, names, &c of all to be particularized; and (12) *memorial to be signed, and verified by affidavit, &c.*

13, 14, 15. *Office copy of registered deed memorial under seal of Court, to be evidence and* (14) *Record Keeper of Supreme Court to allow inspection and furnish copies, &c.* (15) *and fee to be paid for registration, inspection, copies &c.*

16. *Sales and transfers of shares to be effected by form in Schedule.*

17. *No Shareholder to sell any share on which any call is unpaid.*

18, 19. *Transferree of share may require a memorial of transfer to be filed, and Supreme Court may order memorial, &c. and* (19) *no transfer to be complete, &c. until memorial is filed, &c.*

20. *Supreme Court may order memorial to be corrected, &c.*

21. *Directors may close the Register of transfers for a period.*

22. *Company not bound to see to execution of trusts, &c.*

23, 24. *Registered Company shall sue and be sued by name of the Company. Writs, &c. how to be served; and* (24) *how property of Company may be described in indictment.*

25, 26, 27. *Company to be nonsuited unless it is proved that suit is instituted by specified authority: but* (26) *suits not to abate, &c. by changes in the constituant members af the Company; and* (27) *suit not to be affected by plaintiff or defendant being a partner of the Company.*

28. *All unpaid capital to be a debt to the Company, &c.*

29, 30, 31, 32. *Registered Company committing an Act of Insolvency to be liable to Insolvent Court, &c. but* (30) *adjudication of insolvency against the Company not to be deemed insolvency of individual members; but* (31) *to pass property of the Company to the assignee; who* (32) *may compromise debts, &c.*

33. *Directors if unable to meet engagements may at a special meeting declare such inability, and publish such declaration which shall be deemed an Act of forfeiture, &c. for specified purpose.*

34, 35. *Registered Company to be deemed to commit act of forfeiture by not satisfying judgment and execution, and execution creditor and other creditors as particularized may petition Insolvent Court against the Company, &c. whereupon* (35) *Insolvent Court shall make the common vesting order, &c.*

36. *Defines duty of Directors in case of insolvency.*

37. *After adjudication of forfeiture Shareholders not to be liable individually except on their own personal contract.*

38. *After adjudication, Official Assignee to make estimate of sum required to pay debts of Company, and same to be raised by contribution of Shareholders, to be assessed by Official Assignee, and non-payment of assessment to be an Act of Insolvency of defaulting Shareholder, on which petition may be presented, &c.*

39. *Shareholders in the last memorial to be first called on to contribute and afterwards specified former shareholders.*

40. *In fixing sum to be raised, allowance may be made for unrealized assets.*

41. *Assessment not to be deemed erroneous for inequality, if necessary.*

42. *In what manner assets remaining after payment of debts shall be distributed among the Shareholders.*

43. *In case of Company being insolvent before it is registered 3 years, all who are Shareholders within the 3 years liable together with registered Shareholders.*

44, 45. *Authorizes Supreme Court to give aid to wind up affairs of Company at instance of Official Assignee; and* (45) *in like manner to give relief to Shareholders.*

46. *Official Assignee to rank as creditor of Insolvent Shareholder for debt, &c. to Company.*

47. *On adjudication of forfeiture, Company to lose its privileges, and partnership to be dissolved.*

Schedule.

An Act for the Regulation of Registered Joint Stock Companies.

For the Regulation of Joint Stock Companies Registered under this Act, it is enacted as follows:

I. Every unincorporated Company of partners, associated under a deed containing a provision, that the shares in the stock or business of the said Company are transferable without the consent of all the partners, and also every Company established for some literary, scientific or charitable purpose, which does not carry on any business for the pecuniary benefit of any of the proprietors or shareholders, shall be entitled to registration under this Act.

II. The Supreme Courts of Judicature at Calcutta, Madras, or Bombay may, on such petition as is hereinafter mentioned of any persons desiring to register the Company to which they belong, order the registration of such Company; and thereupon such Company shall be duly registered in the said Court, and deemed a registered Company within the meaning of this Act.

III. Every petition for the registration of any Company under this Act shall be filed in the Court to which it is presented, with the deed, or a copy of the deed of partnership of the Company, and a list of the Directors and Shareholders of the Company, severally verified by affidavit of the Secretary, or Manager, or principal or other servant of the Company, intended to be a Registered Officer of the Company within the Presidency in which the petitioners shall apply for registration; and such petition shall set forth the following particulars, that is to say:

First.—The names and additions of all those who are at that time partners of the Company, and their usual places of residence; and, when any Company, which has carried on its business before

registration, shall be admitted to the privileges of this Act, a separate memorial of the names and additions and last known place of abode of all persons who, within three years next before the presentation of the petition, were partners thereof.

Second.—The style under which the Company is to carry on its business.

Third.—The names of the principal places, within the Presidency in which they seek to be registered, where the business is to be carried on.

Fourth.—The amount of capital stock and of any proposed addition thereto, and if consisting of money how much is paid up, and if other than money, the nature of such capital stock, and in all cases how invested, and if separate provision is made for working capital, the amount thereof, and how much of it is paid up.

Fifth.—The number of shares into which the capital stock has been, or is to be divided.

IV. Before the registration of any Company, which has carried on its business before registration under a deed of partnership, not containing any provision for registration of the Company under this Act, the Directors shall call a special meeting of the Shareholders for the purpose of resolving that the Company shall be registered under this Act, to be held at a place and time to be mentioned in the notice of meeting; and such notice, beside being given to the partners in the manner provided in the deed of partnership for notice of special meetings, shall be published in the *Government Gazette*, and in at least one other newspaper circulating within the Presidency, and the time of holding such meeting shall be not sooner than three months and not later than four months after the first of such publications.

V. One-half in number of the Shareholders assembled either personally, or by their lawfully constituted attornies at such meeting, owning at least one-half of the whole number of shares owned by all the Shareholders so present, may resolve that the Company shall be registered under this Act, and such resolution so carried shall be binding on the whole Company.

VI. The petition for registration in such case shall contain, beside the other particulars herein mentioned, statements of the notice and publication thereof, of the holding of the meeting, and

of the several numbers of Shareholders and shares held by them collectively, who were present at the meeting, and who voted in favor of the resolution respectively, and shall state that the petition is presented upon such resolution.

VII. No Company shall be disqualified for registration by reason of any outstanding loan to any Director, or by reason of any Director being a surety, or under any other pecuniary engagement to the Company: but any Director having such loan or being such surety or under such engagement shall, by the fact of the registration of the Company, cease to be a Director, unless the loan or other engagement be such as is authorized by this Act.

VIII. Every registered Company shall be subject to the following regulations, notwithstanding any provisions in their deed of partnership varying therefrom; and the Supreme Court, in which the Company shall be registered, shall have authority, on the petition of any Shareholder, to enforce the same, and from time to time, to make any order or orders in respect of any breach or neglect thereof as to such Court shall seem meet.

First.—Every registered Company shall hold one or more ordinary general meetings of the Company in every year, at such times and places as are appointed by the deed of partnership, or in default thereof, as the Supreme Court, in which such Company is registered, shall in the order for registration appoint, subject to variation by any subsequent order or orders of such Court.

Second.—Every registered Company shall, from time to time, hold an extraordinary general meeting whenever seven Shareholders, or any greater number may require it, by notice in writing under their hands to be delivered to a Registered Officer of the Company, or, if he cannot be found, to any other servant of the Company, at one of their usual places of business.

Third.—No registered Company shall purchase its own Shares or make any loan of money or securities for money to any person or persons, on the security of a share or shares in the partnership or business; and every such purchase or loan shall be a breach of trust within the meaning of all laws now in force, or hereafter to be in force relating to breaches of trust by agents or trustees misappropriating money or property.

Fourth.—No registered Company shall make any loan of money or securities for money to any Director or Registered Officer of such Company, or to any member of a Local Committee at any Branch or Agency, except only in the case of Banking Companies, to such limited amount, and on such securities as shall be sanctioned by the deed, or, from time to time, by a general meeting of the Shareholders of such Banking Company; and every such transaction, except as aforesaid, shall be a like breach of trust: and the particulars of every loan made to any Director or Registered Officer of such Company shall be reported to the next general meeting of Shareholders, with a statement and specification of the several securities on which such loans were advanced,

Fifth.—No Director or Member of a Local Committee at any Branch or Agency, or Registered Officer, shall become a security or guarantee for any person in any loan or other transaction with the Company, nor shall he, in any way, incur liability to the Company uncovered by such security as is sanctioned by the deed of partnership.

Sixth.—The accounts of every registered Company shall be audited half yearly or oftener by two or more Auditors, chosen at a general meeting of the Shareholders, none of the Auditors being a Director or Registered Officer at the time.

Seventh.—A copy of the Auditors' report (if any) and balance sheet and a separate profit and loss account, and a capital account, shewing the amount of the capital, and how invested, and the estimated value thereof verified by affidavit of the same being made to the best of their knowledge and belief, as often as the accounts are audited, shall be filed in the Court, in which the Company is registered, and a written or printed copy of the said report, balance sheet, and accounts, shall be delivered to every Shareholder who shall demand it, or sent by the General Post Office to the place where he may, from time to time, require delivery thereof.

IX. The Court in which the Company is registered may, on the petition of any Shareholder, enforce the performance by the Directors of any of their duties under this Act, or of the deed of partnership, which it may appear just to enforce in a summary manner, after due notice given to such Directors; and disobe-

dience to any order of the Court, in this behalf shall be deemed a contempt of Court, and shall be punishable accordingly.

X. Within one week before or after the first day of January and first day of July, in every year after the registry of the said Company, a memorial shall be filed in the Court, in which such Company is registered, setting forth in alphabetical order, the names of all the partners, with their several additions, places of abode, and the number of shares belonging to each, and the names of the Directors of the Company, and also the names of the servants of the Company to be deemed the Registered Officers within the Presidency in which such Court is situated; and, as often as a change in the Direction or of any Registered Officer shall take place by death, resignation, disqualification, or otherwise, a memorial of such change shall be forthwith filed in the Supreme Court.

XI. When any share is held by two or more persons, the name, addition, and place of abode of every such person shall be separately entered in every such memorial, and each of such persons shall be considered as jointly and separately liable for the engagements of the Company on account of such share; unless when such share belongs to any other Registered Company, in which case the name of such Company shall be entered in the memorial instead of the names of the partners thereof.

XII. The several memorials shall be signed by two or more of the Directors of the Company, and verified by affidavit of one of them before the Master of the Supreme Court or a Commissioner by the said Court appointed.

XIII. An office copy of any such registered deed, or copy thereof filed as aforesaid, or memorial or of any part thereof issued under the seal of the Court, shall be received in evidence before all Courts, as proof of the contents thereof, and no proof shall be required that the persons by whom any such memorial purports to be verified were Directors of the Company.

XIV. The Keeper of the Records of the Supreme Court shall allow all persons, at reasonable times, to inspect any such deed, copy, or memorial, and shall furnish office copies of any such deed, copy, or memorial, or any part thereof, under the seal of the Court, to all persons applying for the same.

XV. Such fees shall be paid for registering every such deed

and memorial, and for allowing inspection and furnishing copies thereof, or of any part thereof, as the Judges of the Supreme Court, with the approval of the Governor or Governor in Council, from time to time, shall establish.

XVI. Subject to the provisions of the deed of partnership, every Shareholder in any such Registered Company may sell and transfer all or any of his shares therein by a deed according to the form in the Schedule annexed to this Act, or to the like effect, and the same, when duly executed, shall be delivered to a Registered Officer, who shall make an entry thereof in a book to be called the Register of Transfers, and shall endorse such entry on the deed of transfer, and deliver an acknowledgment of the receipt thereof to the purchaser, for which entry and endorsement the Company shall be entitled to have a fee not exceeding One Rupee; and until such transfer is so entered and endorsed the purchaser of the share shall not be entitled to receive any share of the profits of the business, or to vote in respect of such share.

XVII. No Shareholder shall be entitled to transfer any share until he has paid all calls at that time due on every share held by him.

XVIII. On the transfer of any share in a Registered Company being executed and notified in the manner required by the Deed of the Company and this Act, the party making or the party accepting such transfer may require a memorial thereof to be made forthwith, and filed with the memorial of the names of Shareholders of the Company; and in case such memorial shall not be made and filed within one month after such requisition, the Supreme Court shall on the petition of either of the said parties and on notice being given to the Directors of the Company, order such memorial to be made and filed, in case the Court shall be satisfied of the validity of such transfer; and every such memorial of transfer shall be taken henceforth as part of the last general memorial.

XIX. No transfer shall be deemed complete, nor shall any Shareholder be discharged from any liability by the transfer of any share, until the memorial of such transfer shall have been filed as aforesaid, or until the purchaser has been substituted as a partner instead of the seller in one of the general half-yearly memorials, in respect of the share or shares so transferred; and

no person shall be liable as a Shareholder by reason merely of having accepted such transfer, until such memorial of the transfer shall be filed, or until he is entered as a partner in one of the general half-yearly memorials.

XX. The Supreme Court in which any Company is registered may, on petition and on notice being given to the Directors, and to every other person to whom it shall appear to the Court that notice ought to be given, order any memorial filed under this Act to be corrected, in case of any material error of omission or otherwise, either in the lists of Shareholders or any other respect whatever.

XXI. The Directors may close the Register of Transfers for a time not exceeding fourteen days before the payment of any dividend, and may fix a day for closing the same, of which seven days' notice shall be given in the *Government Gazette.*

XXII. The Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any share is subject; and the receipt of the person in whose name any share stands in the books of the Company, or in the case of a minor, idiot, or lunatic, the receipt of the guardian or committee, or where the share stands in more than one name, the receipt of the person, whose name stands first, shall be a sufficient discharge to the Company for any dividend or other sum of money payable on account of such share, whether or not the Company had notice of any such trust; and the Company shall not be bound to see to the application of any money paid on such receipt.

XXIII. Every such registered Company shall sue and be sued by the registered name of the Company, as if it were an incorporated Company, and in no other manner; and service of any writ, order, or other process or notice on a Registered Officer of the said Company, at one of their usual places of business, or, if he cannot be found, in such manner as the Supreme Court in which such Company is registered shall order and direct, shall be good service on such Company.

XXIV. In any indictment or information for any theft or embezzlement of the monies or goods of any such Registered Company, or for any other offence committed against them or their property, or with intent to defraud or injure them, and in

any proceeding in which it may be necessary to name them, they may be described by the registered name of the Company.

XXV. In any suit brought or proceeded with in the name of any such Registered Company, the plaintiffs shall be liable to be nonsuited unless it is proved on their part that the suit is brought or proceeded with by direction of one or more of the partners appointed at a general meeting to be Directors of the Company, or by the direction of some person or persons having authority from the Directors to bring suits on behalf of the Company; and such proof may be given either by filing a warrant to sue signed by such Director or person, and supported by affidavit, or in such other manner as shall be consistent with the practice of the Court.

XXVI. No such suit, indictment, information, or other proceeding shall abate or be prejudiced by any change of the persons constituting the partnership, or of the Directors, or of the person having such authority.

XXVII. No suit by or against the Company shall be in anywise affected by the defendant or plaintiff therein being or having been a Shareholder of the Company; but any such Shareholder, either alone or jointly with any other person or persons as against the Company, or the Company as against any such Shareholder, either alone or jointly with any other person or persons, shall have the same right of action, remedy, and execution, in respect of any claim whatever, as the Shareholder or Company would have had, if the Shareholder had been a stranger.

XXVIII. All unpaid capital, or money due on account of the Capital Stock of the Company, shall be deemed a debt due to the Company, and shall be recoverable as such by the description of money due by the defendant, on account of a share in the business of the Company.

XXIX. A Registered Company, which shall commit any act which is hereby deemed an act of forfeiture, shall be liable to the jurisdiction of the Court for Relief of Insolvent Debtors, and a petition to the said Court in the case of such Company shall be prosecuted in the same manner as petitions in the case of Insolvent Debtors: and in case of an adjudication of forfeiture the law and practice of the said Court, with such alterations of the practice as, from time to time, shall seem to the Court necessary,

shall be extended to the case of such Company, as in the case of an adjudication of insolvency in the case of an Insolvent Debtor.

XXX. An adjudication of forfeiture against any such Company shall not be deemed an act of insolvency of the individual members of such Company.

XXXI. An adjudication of forfeiture against such Company shall convey to the Assignee or Assignees appointed to the whole of the real and personal property of the said Company, and all debts, causes of suit, and possibilities of interest, with the like power to sue either at Law or in Equity, as fully and effectually as an adjudication of insolvency against any individual could convey the same by any of the laws now in force or hereafter to be in force affecting insolvents.

XXXII. Whenever an adjudication of forfeiture shall have issued against any such Company, the Assignee or Assignees, from time to time, may compromise any debts or claims belonging to the said Company, and may grant discharges to the parties to such compromises.

XXXIII. Whenever the Directors of any Registered Company shall be unable to meet the engagements of the Company, they shall at a special meeting of the Directors convened for that purpose, and by such a number and majority of them as would be sufficient for any ordinary business of the Company, declare such inability by a resolution, which being signed by the Directors by whose votes it has been carried, shall be forthwith published in the *Government Gazette* of the Presidency; and for two calendar months after the publication of such resolution, but not later, such resolution shall be deemed an act of forfeiture of their privileges for the sole purpose, nevertheless, of supporting a petition to the Court for Relief of Insolvent Debtors in case a petition shall be filed within two months after the date of the publication thereof as aforesaid, but not afterwards.

XXXIV. Any Registered Company which shall not within two months after judgment and the issue of a writ of execution thereof, satisfy such judgment, shall be deemed to have committed an act of forfeiture, and thereupon the execution creditor, or any creditor to whom such Company shall be indebted to the amount of Company's Rupees Five Hundred, or any two credi-

tors to whom such Company shall be indebted to the amount of Company's Rupees Seven Hundred, or any three or more creditors to whom such Company shall be indebted to the amount of Company's Rupees One Thousand, may present a petition to the Court for the Relief of Insolvent Debtors at the Presidency within which such Company is registered, stating the amount due to such creditor or creditors, and the registry and act of forfeiture of such Company, and praying such Court would proceed as if such Company or the Shareholders thereof had petitioned such Court for relief under the laws in force for Relief of Insolvent Debtors; whereupon the Court shall enquire into the truth of such petition, and if such Court shall be satisfied thereof, such Court shall adjudge the same to be true, and that such Company has committed an act of forfeiture, and proceed thereon pursuant to the provisions of the Act for the Relief of Insolvent Debtors in India, and of this Act.

XXXV. Upon the filing of any petition to the Court for Relief of Insolvent Debtors in the case of any Registered Company, whether by a Shareholder or by a Creditor, the Court shall make the like vesting order for the purpose of vesting all the real and personal estate of the Company in the Official Assignee, and such other orders ancillary thereto as the Court might make in case of an individual insolvent debtor, and all the powers and authorities of the said Court, and all the laws relating to insolvent debtors shall, so far as the circumstances of the case admit, be extended to all such Registered Companies.

XXXVI. Whenever there shall be an adjudication of forfeiture against any Registered Company, the Directors of such Company at the time of filing the petition shall be subject to the orders of the said Court for the Relief of Insolvent Debtors, and it shall be their duty individually or collectively to prepare such balance sheet and other accounts as the Court may deem necessary, and to assist the Official Assignee in the examination of and closing all the affairs of the Company; and every Director and person who shall at any time have been a Director of the Company shall be liable to be examined upon oath, and to make full and true discovery of the estate and effects, past and present, and business, affairs, and interests of the Company, either orally or upon written interrogatories, as the Court may order.

XXXVII. Upon the adjudication of forfeiture against any Registered Company, the claims of any creditor of the Company against the Shareholders shall not be enforced otherwise than under this Act, except in respect of any special contract, or any debt or liability contracted by any Shareholder in his individual capacity, otherwise than by taking a share in the business of the Company.

XXXVIII. As soon after an adjudication of forfeiture against any Company as the Official Assignee can make an approximate estimate of the amount of the debts and other claims against the Company, or of any certain portion thereof, the said Court, on the application of the Official Assignee, shall order such sum to be raised by contribution of the Shareholders as may appear to the said Court necessary for the satisfaction of such debts and claims; and may from time to time order such further sum to be raised in like manner as may appear necessary: and upon obtaining such order the Official Assignee shall assess the said sum ratably amongst the Shareholders according to the number of shares held by them respectively, and immediately proceed to collect the same; and monthly or oftener shall report defaulters to the said Court together with the amounts at which they were assessed respectively, and thereupon the said Court, if satisfied that the said assessment is just, shall order the payment of such assessment within such time and upon such notice or demand by advertisements or otherwise, as the Court may see fit; and non-payment thereof within the time ordered by the Court shall be an act of insolvency of the defaulting Shareholders; and the said Assignee, or any person being a creditor of the said Company to the amount of Company's Rupees Five Hundred, or any two creditors to whom such Company shall be indebted to the amount of Company's Rupees Seven Hundred, or any three or more creditors to whom such Company shall be indebted to the amount of Company's Rupees One Thousand, may present a petition to the Court for the Relief of Insolvent Debtors of the Presidency within which the said Company is registered, stating such act of insolvency, and praying that such defaulting Shareholder may be adjudged to have committed an act of insolvency, and upon such petition being duly verified, the Court shall be empowered to adjudge that such defaulting Shareholder has committed an act of

insolvency, and the Court for Relief of Insolvent Debtors in the Presidency in which the defaulter is resident may proceed thereon according to the provisions of the Act for the Relief of Insolvent Debtors in India.

XXXIX. The Shareholders of untransferred shares whose names are in the last general memorial, including those (if any) who have been subsequently returned as Shareholders of the Company, shall be liable and be called upon in the first instance to satisfy the debts of the Company; but in case it shall appear to the said Court that full satisfaction cannot, within such time as may appear reasonable to the Court, be otherwise obtained, such other persons as at any time within three years next before the adjudication of forfeiture shall have been returned in any memorial as Shareholders of the Company shall be liable to contribute to such amount collectively as the Court may order; and, upon every order for contribution from former Shareholders, the Official Assignee shall proceed as hereinbefore prescribed in the case of present Shareholders.

XL. In fixing the sum to be raised from time to time by assessment of the Shareholders, it shall be in the discretion of the Court to make such allowance for unrealized assets of the said Company, as the Court may deem just.

XLI. No such assessment shall be deemed erroneous or set aside merely by reason of its being in excess of other assessment ratably considered, if the same be needed for satisfaction of any creditor of the said Company, and any such assessment may be reduced, when expedient, by order of the Court.

XLII. If on realizing the assets of the Company a balance shall remain, after payment of the debts and other claims against the Company, the said Court may order the repayment out of such balance, first, of such sums or ratable parts thereof as have been paid by any Shareholders not liable in the first instance to satisfy the debts of the Company; and secondly, of such sums or ratable parts thereof as have been paid by any other Shareholders in excess of their ratable liability, according to the number of their shares, regard being had to the number of other assessed Shareholders; and lastly, if such a balance shall not thereby be exhausted, the said Court may order the distribution of the remainder thereof among the Shareholders by the Official Assignee

upon a scheme or plan to be submitted to and approved by the said Court, or may order the same to be paid to the Accountant General of the said Court to the credit of the said Company, to abide such proceedings as any parties interested therein may take at Law or in Equity: and any order of the said Court for the disbursement of money shall be a sufficient authority to the said Official Assignee to protect him against all claims in respect of such disbursement by any Shareholder or Creditor.

XLIII. If any Registered Company which carried on its business before registration shall incur an adjudication of fofeiture before it has been registered for three years, such persons as are not registered Shareholders but were Co-partners or Shareholders thereof at any time before the registration of the Company, but within three years before the filing of the petition for relief, shall be liable to contribute to the debts of the Company in like manner as if they were on the first memorial of the Shareholders of the Company.

XLIV. Whenever it shall appear to the Court for Relief of Insolvent Debtors that the aid of a Court of Equity will be necessary for closing the affairs of any Registered Company, against which an adjudication of forfeiture has been made, the said Court may order the Official or other Assignees to take proceedings in the Supreme Court in Equity, by bill, or by petition for the like relief as might be had by bill, and the said Supreme Court shall have power on such petition to make such original and subsequent orders as upon a bill filed, and such orders shall have the same effect and be executed in the same manner as decretal orders.

XLV. The said Supreme Court may likewise on petition of any Shareholder having any claim against any other Shareholder, in respect of the affairs of the Company, make such order as it may deem just for settling such claim between such Shareholders.

XLVI. Whenever any Shareholder in a Registered Company, which shall have been adjudged to have incurred forfeiture, shall be adjudged an insolvent, either on his own petition, or under the provisions aforesaid, or otherwise, the Assignee or Assignees of such Registered Company shall be entitled, from time to time, to rank as a creditor on the estate of such insolvent, for such ratable contributions, as the Court for the Relief of Insolvent Debtors shall, from time to time, appoint to be paid by such insolvent Shareholder.

XLVII. After the affairs of any such Registered Company against which there has been an adjudication of forfeiture are closed under this Act, the Company shall forfeit all its privileges under this Act, and the partnership shall be dissolved.

SCHEDULE.

I——of——in consideration of——paid to me by——of——do hereby transfer to the said——the share (or shares) numbered——in the business called The——to hold unto the said——his [or her] Executors, Aministrators and Assigns, subject to the Conditions of the Partnership Deed of the—— Company, registered in the Supreme Court of Judicature at——, and the other Conditions in which I held the same: And I the said——do hereby agree to take the said share (or shares) subject to the same Conditions: As witness our hands and Seals, the——day of——in the year——

Witness

A. B. (L. S.)

C. D. (L. S.)

BENGAL.—BOARD OF CUSTOMS.

ACT No. XLIV. OF 1850.

[*Passed on the 27th December*, 1850.

1. *Repeals R.* 4, 1819.

2. *Transfers powers, &c. of Board of Revenue in Customs, Salt and Opium Department, to the Sudder Board of Revenue constituted under R.* 1, 1829.

3. *Sudder Board of Revenue to be styled* Board of Revenue *for the Lower Provinces, &c.*

An Act for consolidating the Board of Customs, Salt and Opium, and the Sudder Board of Revenue in the Lower Provinces of Bengal.

Whereas by Regulation IV. 1819, of the Bengal Code, a Board of Revenue, in the Customs, Salt and Opium Department, was constituted in the Province of Bengal, with all the duties, powers and authorities of the Board of Revenue, with respect to

customs and town duties, and with the powers theretofore possessed by the Board of Trade in the Salt and Opium Departments; and whereas it is not now necessary that this Board should be continued, separate from the Board of Revenue in the Lower Provinces of Bengal, It is enacted as follows:

I. Regulation IV. 1819, of the Bengal Code, is rescinded; but not so as to revive any part of any Rule or Regulation thereby rescinded and annulled.

II. All powers and duties now vested in, or belonging to the Board of Revenue in the Customs, Salt and Opium Department, and its Officers respectively, shall be transferred to the Sudder Board of Revenue constituted in the said Lower Provinces according to Regulation I. 1829, of the Bengal Code, and its Officers respectively: and all Acts and Regulations now in force relating to the said Customs, Salt and Opium Board of Revenue, or its Officers, shall be understood henceforth, as if the said Sudder Board of Revenue and its Officers had been respectively mentioned therein instead of the said Board of Customs, Salt and Opium, and its Officers.

III. The said Sudder Board of Revenue shall be henceforth styled the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.

CORONERS.

ACT No. XLV. OF 1850.

[*Passed on the 27th December*, 1850.

Empowers Coroners to hold inquests on bodies within their jurisdiction, whether the cause of death occurred within or without the jurisdiction.

Act to declare the Law as to the jurisdiction of Coroners.

For removal of doubts as to the jurisdiction of Coroners, It is declared and enacted as follows:

I. In all cases in which an inquest ought to be holden on any body lying dead within the jurisdiction of any Coroner, appointed for any place within the Territories under the Government of the East India Company, the Coroner having jurisdiction where the body is lying dead, has power to hold and shall hold such inquest; and every such inquisition taken before him is valid, whether or not the cause of death arose within his jurisdiction.

BENGAL.

ACT No. I. OF 1851.

[*Passed on the 7th February*, 1851.

All fines under Act 24, 1845, *to be paid into Bengal Treasury to credit of Marine Department and applied to expenses of Marine Courts.*

For the appropriation of fines levied under Act XXIV. 1845.

It being reasonable and just that the amount of all fines levied under Section V. Act XXIV. 1845, should go toward defraying the expenses attending the holding of Courts under the said Act, It is enacted as follows:

I. All fines imposed and levied under Act XXIV. 1845, shall be paid into the Government Treasury to the credit of the Marine Department of the Presidency of Fort William in Bengal, and shall be applicable in discharge of expenses connected with the summoning and holding of Courts and other proceedings under the said Act.

N. W. PROVINCES.--SUDDER DEWANNY ADAWLUT.

ACT No. II. OF 1851.

[*Passed on the* 11*th April*, 1851.

I. *Judge of Sudder Dewanny Adawlut not to be disqualified for hearing appeal by reason of having been Judge of the Lower Court whose decree is appealed against.*

To amend Regulation XIII. 1810, of the Bengal Code, for the trial of Appeals.

Whereas the Sudder Dewanny Adawlut of the North-Western Provinces, of the Presidency of Fort William in Bengal, as now constituted, comprises three Judges only, and appeals cannot therefore be entertained according to Regulation XIII. 1810, of the Bengal Code, and Act II. 1843, where the judgment appealed from was passed by one of the said Judges, and it is therefore expedient that the said Regulation be amended, It is enacted as follows:

I. No Judge, of either of the Courts of Sudder Dewanny of the Presidency of Fort William in Bengal, shall be disqualified from being one of three Judges sitting for the hearing and decision of an appeal, by reason of his having passed the decision in the Lower Court, against which the appeal is made.

BENGAL.--SALT SMUGGLING.

ACT. No. III. OF 1851.

[*Passed on the* 11*th April*, 1851.

1. *Act* 29 *of* 1838, *as to proceedings by Salt Officers on information of Salt exceeding one maund being stored, extended to information of Salt being unlawfully manufactured.*

2. *Act* 29 *of* 1838, *Sec.* 14 *modified. Penalties prescribed by Reg.* 10 *of* 1819, *and Act* 29 *of* 1838, *for the illegal possession and transmission of Salt, extended to persons conveying more than five seers of Salt without protective document, and to gangs of persons carrying more than ten seers of such Salt.*

An Act to amend Regulation X. 1819 and Act XXIX. 1838, for preventing the unlawful manufacture and transportation of Salt.

Whereas the Laws in force for prevention of the unlawful manufacture and transportation of Salt in the Provinces of Bengal, Behar and Orissa are defective, It is enacted as follows:

I. Any Salt Agent or Superintendent of Salt Chokies, and also any Assistant to a Salt Agent or Superintendent, or head Officer of any Salt Chokee or Aurung, to whom information shall be given that salt is unlawfully manufactured in any warehouse, dwelling house or other enclosed place within his jurisdiction, may act upon such information in the same manner as in Act XXIX. 1838 he is authorized to act, upon information given him of salt exceeding one maund in quantity being in store in a house, warehouse or other place; and all freshly manufactured contraband salt found by such officer shall be liable to seizure together with the implements of manufacture, and the provisions of Sections II. to X. of Act XXIX. 1838, as to the receipt of information and the manner of search and seizure, and of Section XXIII. of the same Act, as to the penalty for false and malicious information shall be applicable to information given, and search and seizure made under this Act.

II. In modification of Section XIV. Act XXIX. 1838 any person who shall be found conveying salt, exceeding in quantity five seers of eighty tolahs to the seer, without protective document, within the tract of country in Bengal or Orissa wherein the transportation of salt, unless so protected, is prohibited, and also

all persons found in gangs or companies carrying salt so unprotected, which in the whole quantity exceeds ten such seers, shall be subjected to the penalties prescribed by Regulation X. 1819, of the Bengal Code, and Act XXIX. 1838, for the illegal possession and transportation of salt.

BOMBAY.—UNCOVENANTED SERVICE.

Repealed by XVII of 1862

ACT No. IV. OF 1851.

[*Passed on the 25th April*, 1851.

1. *Repeals part of Act* 15 *of* 1843, *which empowers the Governor of Bombay to confer on Assistant Magistrate the powers of a Magistrate.*

2. *Empowers G. of B in Council to appoint uncovenanted Deputy Magistrates, with powers specified.*

3. *Requires Deputy Magistrate before he enters on his official duties, to make and subscribe a declaration to same effect as the oath taken by magistrates.*

4. *Powers of Deputy Magistrate. May be employed as a judicial officer or officer of Police or both. As a judicial officer to have the powers of a covenanted assistant under Bombay R.* 12, 1827, *S.* 3, *R* 4, 1830; *R.* 8, 1831; *or the full powers of a Magistrate when specially authorized. The same appeal from his decisions as from decisions of magistrates and assistant magistrates. As officer of Police, to be subordinate to the magistrate, and to have such powers as may be committed to him.*

5. *Revenue and Judicial uncovenanted officers may hold with other office that of Deputy Magistrate.*

6. *Deputy Magistrate not to be dismissed for misconduct without the sanction of the G. in C. Magistrate to report his conduct when believed to be disqualified, and G. in C. to make orders thereupon.*

An Act for the appointment of uncovenanted Deputy Magistrates and for defining the duties of Deputy and Assistant Magistrates in Bombay.

Whereas the administration of justice will be improved by extending the provisions of Act XV. 1843, to the Presidency of Bombay, and by more exactly defining the powers of Assistant Magistrates, It is enacted as follows:

I. So much of Act XIV. 1835, as empowers the Governor of Bombay in Council to confer on any Assistant Magistrate by a special order, any of the powers of a Magistrate, is repealed,

II. The Governor of Bombay in Council may appoint to any Zillah or District one or more unconvenanted Deputy Magistrates, with the powers hereinafter specified.

III. Every person appointed to the office of Deputy Magistrate under this Act shall, before entering upon the execution of the duties of his office, make and subscribe before one of the Courts of Record established in the said Presidency, (or in the Zillah to which he is appointed) a declaration to the same effect as the oath required by law to be taken by Magistrates, which declaration shall be deemed to be made under Act XXI. 1837.

IV. A Deputy Magistrate appointed under this Act, or an Assistant Magistrate, may be employed as a judical officer, or as an officer of Police, or both, at the discretion of the Governor of Bombay in Council. As a judical officer he shall exercise the powers of a covenanted Assistant, under Section III. Regulation XII. 1827, Regulation IV. 1830, Regulation VIII. 1831, of the Bombay Code, and Act XXV. 1839, or the full powers of a Magistrate, when specially authorized by the Governor of Bombay in Council; and, in such cases, he shall be subject to such authority in regard to appeals from his decisions and judical orders as is provided under the above mentioned Regulations for the decisions and orders of a covenanted Assistant or of a Magistrate respectively. As an officer of Police, he shall be in all respects subordinate to the Magistrate under whom he is placed; he shall exercise such executive powers only as the Governor of Bombay in Council or the Magistrate, with the sanction of the Governor of Bombay in Council, commits to him, and shall obey all lawful orders so issued, and perform all duties so assigned to him by the said Magistrate, who shall be at all times competent, subject to such orders as he receives, from time to time, from the Governor of Bombay in Council, to extend, limit or resume the executive powers committed to such Assistant or Deputy.

V. Nothing in this Act contained shall be held to disqualify any uncovenanted Officer in the Revenue and Judical Departments from holding, at the same time with any other office, the office of Deputy Magistrate.

VI. A Deputy Magistrate appointed under this Act, shall not be dismissed from office for misconduct, without the sanction of the Governor of Bombay in Council. Whenever there is reason to believe, that a Deputy Magistrate is disqualified, by neglect, incapacity, corruption or other misbehaviour, for continuance in office, a report shall be made by the Magistrate for the consideration and orders of the Governor of Bombay in Council, who shall be

competent to suspend such Deputy Magistrate, and order a further enquiry into his behaviour, or order his immediate dismissal, as appears just and proper.

SIR THOMAS TURTON.

ACT No. V. OF 1851.

[*Passed on the 6th June*, 1851.

Recites Sir T. T.'s appointment as Ecclesiastical Registrar, the resignation of that officer, insolvency and inability to pay monies officially due from him as Ecclesiastical Registrar and also monies due from him as Registrar of the Court on its Ecclesiastical Equity and Admiralty sides and as Curator under Act 19, 1841, *and Official Trustee under Act* 17, 1843.

Also recites that Commissioners had reported on Sir Thomas Turton's deficiencies, and the expediency of paying the losses out of the accumulated produce of unclaimed estates in charge of the Administrator General.

1. *Enacts. The net proceeds of all estates adminstered by the Ecclesiastical Registrar and ready to be distributed before January* 1836, *and not since claimed, and also the net proceeds of all estates administered or to be hereafter administered by the Administrator General, and which shall continue unclaimed for* 15 *years, shall be transferred and paid to the Sub-Treasurer of the E. I. C. to the credit of the E. I. C. for the general purposes of Government.*

2. *If Claimants to money so transferred appear and can establish their right to it to satisfaction of Administrator General and Accountant, the same to be paid by the East India Company, and if not so established, claimant may petition to Supreme Court which may decide the case.*

3. *The Accountant to the Government of Bengal to direct the Sub-Treasurer to pay the persons named in the several schedules to the Commissioner's report the sums due to them respectively.*

For relief of certain sufferers by the Insolvency of Sir Thomas Turton, Baronet.

Whereas, under an Act of Parliament passed in the fortieth year of the Reign of King George the third, entitled "an Act for establishing further Regulations for the Government of the British Territories in India, and the better Administration of Justice within the same," Sir Thomas Edward Mitchell Turton, Baronet, as Registrar of the Ecclesiastical Court at Fort William in Bengal, was empowered to administer to the Estates of all British Subjects dying intestate within the said Presidency of Fort William in default of any claim made and established on behalf of any next of kin or Creditor to the deceased; And whereas the

said Sir Thomas, on or about the 25th day of February 1848, resigned the Office of Registrar of the said Ecclesiastical Court, then being insolvent, and unable to pay several large sums of money due to the owners of sundry Estates to which he had administered or had assumed to administer under the power vested in him by the said Act, and also other sums of money due to the owners of sundry Estates of which he had taken charge as such Registrar, although on account of the small value thereof or otherwise, no Letters of Administration of the last mentioned Estates were granted to him, and also other sums of money belonging either to suitors of the Supreme Court of Judicature at Fort William in Bengal, or other persons for whose benefit a trust was created in the said Sir Thomas, by reason of his holding the office of Registrar of the said Court, on its Ecclesiastical, Equity and Admiralty sides, or as Curator under Act XIX. 1841, or as Official Trustee under Act XVII. 1843;

And whereas, in order to know the deficiency of the said Sir Thomas in respect of the said several particulars of charge, certain Commissioners were appointed by an order under the seal of the supreme Court of Judicature at Fort William, bearing date the 8th March 1848, to enquire and report thereon to the Court;

And whereas the said Commissioners made their report to the said Court, bearing date the 25th January 1849, and now filed of record in the said Court, whereby they reported fully on the several matters committed to them as aforesaid, setting forth in the body of the said Report, and also in certain Schedules thereunto annexed marked (A,) (B,) (C,) (D,) (E,) and (F) respectively the names and titles of the several Estates, suitors and other persons to whom upon the acccount taken by them, money or securities for money appeared to be due by the said Sir Thomas;

And whereas, it is deemed expedient that the said sufferers by the insolvency of the said Sir Thomas Edward Mitchell Turton be reimbursed their several losses out of the accumulated produce of certain unclaimed Estates, now in the custody and managment of the Administrator General, due provision being made for securing the interests of the rightful claimants thereunto, if any shall hereafter appear; It is enacted as follows:

I. The net proceeds of all Estates to which the Registrar of the said Ecclesiastical Court has administered in right or under colour of his office under the said Act of Parliament, and which from the official books and accounts of the said Registrar appear to have been in the custody or control of the said Registrar ready to be distributed before the first day of January 1836, and to have been since that time unclaimed and now to continue unclaimed in the custody or control of the Administrator General in Bengal in right of his office under Act VII. 1849, and also from time to time the net proceeds of all Estates to which the said Registrar or the said Administrator General under the said Act VII. 1849 has administered, or to which the said Administrator General shall hereafter administer, and which shall in like manner appear to have continued for fifteen years in his custody or control unclaimed shall be transferred and paid, as the same respectively accrue, to the Sub-Treasurer of the East India Company at Fort William in Bengal, and be carried to the account and credit of the East India Company for the general purposes of Government, and the receipt of the said Sub-Treasurer shall be a full indemnity and discharge to the said Administrator General for any such payment.

II. If any claim shall be hereafter made to any part of the net proceeds of any Estate so transferred and paid to the account and credit of the East India Company, and established to the satisfaction of the Administrator General and Accountant to the Government of Bengal for the time being, the said Accountant shall direct the Sub-Teasurer to repay, and the Sub-Treasurer shall thereupon repay the principal sum so paid or represented by the Securities so transferred, or so much thereof as shall appear to be due to the claimant out of the monies of the East India Company in his custody. If the claim is not established to the satisfaction of the said Administrator General and Accountant, the claimant may apply by petition to the said Supreme Court against the East India Company and Administrator General, for the time being; and, after taking evidence either orally or on affidavit in a summary way as the Court shall think fit, the Court shall make such orders on the petition as justice requires, which shall be binding on all parties to the suit.

III. The Accountant to the Government of Bengal is autho-

rized and required from time to time to direct the Sub-Treasurer to pay, and the Sub-Treasurer shall thereupon pay, out of the monies of the East India Company in his custody, such sums as will be sufficient to pay off and discharge to such persons as shall appear to be entitled thereunto, as the lawful representatives of the Intestates and others named in the Schedules (A,) (B,) (C,) (D,) (*a*) annexed to the said Report, and also to the suitors and other persons entitled to the Equity Deposits and Trust monies in the suits and under the trusts named in the Schedules (E) and (F) annexed to the said Report, and other deposits and trust monies (if any) paid or entrusted to the said Sir Thomas by order of the said Court, and to the net proceeds of the estate of Ramnarain Coondo, of which the said Sir Thomas was Curator under Act XIX. 1841, the several principal sums of money which, upon the final adjustment of the accounts of their several claims and estates, shall appear to have been due to them respectively from the said Sir Thomas on the 25th day of February 1848, and to be then still due and unsatisfied, and also the balance due by the said Sir Thomas to Government in respect of Court fees received by him as Registrar of the said Court, but not accounted for by him to Government.

BOMBAY.—LAND REVENUE.

ACT No. VI. OF 1851.

[*Passed on the 6th June*, 1851.

Recites that the E. I. Co. has a freehold reversionary interest in lands paying a render called Foras, *after certain tenancies at will and from year to year; and recites that it is expedient the reversionary right should be extinguished save as is reserved.*

1. *Enacts that certain of the Foras lands shall be vested in the E. I. C. freed from all tenancies, for certain specified public purposes.*

2. *Extinguishes the rights of the E. I. C. as reversioner in other lands, saving the right of the Company to rents now payable, and all rights arising from forfeiture, &c.*

3. *Such extinguishment to enure for the benefit of the persons beneficially interested in the lands and not of bare trustees.*

(*a*) See *post*, Act No. 8, 1851, by which the above Act is repealed as respects the claims of persons mentioned in Schedules B and D.

4. *This Act not to operate to exempt any lands from future taxes, &c.*

5. *The G. of B. to appoint four Commissioners under this Act, three of whom to be a quorum, and to fill up vacancies.*

6. *Duplicate of recited plans to be deposited with Commissioners.*

7. *The Commissioners to estimate the value of lands and improvements in plan No. 2, and the amount of expences, and to assess the same on lands in plan No. 1, and the realizations to form the "Foras Land Assessment Fund." Commissioners may summon witnesses, &c.*

8. *Witnesses neglecting to appear before Commissioners to be fined.*

9. *The estimate and assessment to be signed by the Commissioners and be a record.*

10. *Commissioners to make and sign a Certificate of their assessment, and the holders of the Certificate entitled to be paid sum certified out of the "Foras Land Assessment Fund."*

11. *What rent-payers shall be entitled to be the first holders of Certificates.*

12. *Certificates to be delivered by Commissioners to parties entitled, or deposited with Prothonotary of Supreme Court.*

13. *Delivery of a Certificate by Commissioners not to preclude persons having a better title to the Certificate from claiming the same.*

14. *When assessment is completed, notice thereof to be given in Gazette, and Commissioners may collect and enforce payment of assessment.*

15. *Commissioners, subject to approval of G. of B. in C. may employ Surveyors, &c.*

16. *Commissioners' receipt of assessment, not to be conclusive of the title of person paying. And Commissioners may redeem the Certificates when Foras Land Assessment Fund is sufficient.*

17. *Commissioners raising by distress and sale more than is required to pay assessment, shall pay the surplus to the owner of the lands or goods, sold, or in case of doubt, to the Supreme Court.*

18. *Commissioners paying person not entitled, are not to be liable; but person entitled may recover from person paid.*

19. *Certificates to be transferrible by indorsement.*

20. *Commissioners may grant warrant for taking the lands mentioned in plan No. 2. Warrant to have same effect as Sheriff's warrant.*

21. *Commissioners with consent of G. of B. in C. may alter plan No. 2. and corresponding alterations to be made in plan No. 1. The plans in office of Secretary to Government to be deemed the original and authentic.*

22. *No action to lie against any Commissioner for any thing done or omitted by him as Commissioner; and Certificate of Secretary to Government to be evidence that act complained of is within the Act*

23. *When business of Commission closes, its records to be made a record of the B. government.*

24. *Unappropriated balance to be paid to Municipal Fund: and Municipal Fund to supply deficiency of Foras Land Assessment Fund.*

Schedules 1, 2, 3.

Respecting certain land in Bombay called Foras Land.

Whereas the East India Company are legally entitled to the freehold reversion of the several lands heretofore paying a render called Foras, the outline whereof is delineated in a plan deposited in the office of the Secretary to the Government of Bombay and authenticated by the signatures of the Right Honorable the Governor and Members of the Council of Bombay and numbered 1, subject to certain tenancies therein at will, or from year to year; and whereas it is considered expedient as of grace and favor that the rights of the said East India Company in all of the lands included in the said plan, save those marked upon the said plan as to be taken, or as having already been taken for public roads, tanks and other public purposes, the outline of which lands as to be or having been taken is also delineated in another plan numbered 2, also deposited and authenticated as aforesaid, should be extinguished save as hereinafter mentioned, It is enacted as follows:

I. The lands comprised in the said plan No. 2 shall, from and after the first day of July, in the year 1851, be vested in the said Company free from all rights therein of all other persons, for the purpose of constructing public roads, tanks and other public purposes.

II. From and after the said first day of July, the rights of the said Company in all of the said lands mentioned in the said plan No. 1, except those mentioned in the said plan No. 2, shall be extinguished in favor of the persons who shall then hold the same respectively as the immediate rent-payers to the said Company, saving the rents now severally payable in respect of such lands, which shall continue payable, and recoverable by distress or by any means by which land revenue in Bombay is or shall be recoverable under any Act or Regulation, and saving also all rights of forfeiture and escheat, in respect of want of heirs or representatives, or of felonies committed, or otherwise in respect of attainder.

III. As between such rent-payers and other persons, such extinguishment shall endure for the benefit of the persons beneficially entitled to the lands thereby affected, and not of any mere Trustee or other person in whom the legal estate only is or may be vested.

IV. Nothing herein contained shall exempt such lands from being liable to any future general taxes on land in Bombay, or from being subject to Act XXVIII. 1839 and Act XVII. 1850.

V. After the said first day of July as soon as shall be convenient, the Governor of Bombay in Council shall appoint fit persons, not exceeding five in number, to be Commissioners under this Act, for the purposes hereinafter mentioned (with such salaries or remuneration as to the said Governor in Council shall seem fit); any three or four of whom met together, (two being Officers of Government), may do any act which by this Act the Commissioners are empowered to do; and in case of the death, resignation, removal or absence of any such Commissioner the Governor in Council shall appoint another in his room.

VI. A duplicate of the said plans, authenticated by one of the Secretaries to the Government of Bombay, shall be lodged with the said Commissioners and shall form a record of their office.

VII. From and after the said first day of July the said Commissioners shall proceed to estimate the value of the several portions of land and the improvements thereon comprised in the said plan No. 2, and of the expenses which will be incurred in executing this Act, and to assess the amount of such estimate in such way and in such proportions as to them shall seem right to and upon the lands mentioned in the said plan No. 1, and the fund to be raised by such assessment shall be denominated the "Foras Land Assessment Fund;" and for the purpose of framing such estimate and making such assessment the said Commissioners may summon as witnesses any persons whomsoever, whether interested or not in the said lands, and examine them on oath or otherwise as they may see fit, or proceed upon a mere estimate, according to the best of their judgment, without evidence.

VIII. Any person summoned as a witness, and refusing or without lawful excuse neglecting to appear and give evidence according to the terms of the summons may, on proof thereof be fined by any Magistrate of Police for every default a sum not exceeding ten Rupees, to be paid to the said Commissioners for the said Foras Land Assessment Fund, and may be committed to prison in default of payment.

IX. The said estimate and assessment when completed shall

be signed by the said Commissioners and from a record of their office.

X. After the completion of the said estimate the said Commissioners shall make out and sign certificates, which shall, by numbers, or in such other way as to the said Commissioners may seem more convenient, refer to the several portions of land mentioned in the said plan No. 2, and shall show the estimated value of the land and improvements thereon to which the same refer, which certificate shall give to the holders thereof a right to demand payment of the sums for which the same are in the body of the same expressed to be granted, from and out of the said "Foras Land Assessment Fund," after the said Commissioners shall, by public advertisement in the Bombay Government Gazette, have advertised that they are ready to redeem the said certificates.

XI. The persons who shall have been the rent-payers to the said Company on the said first day of July of any land mentioned in the said plan No. 2, or their representatives or assigns shall be entitled to be the first holders of the certificates relating to the same lands.

XII. When the said certificates shall have been completed, the said Commissioners shall distribute the certificates to the persons entitled thereto; or, if it shall appear to them doubtful to whom any certificate should be delivered, may deposit it with the Prothonotary of the supreme Court of Judicature established at Bombay by Royal Charter, which Court may adjudicate upon the right to every certificate so deposited, and may direct how such right shall be tried.

XIII. The delivery to any person by the Commissioners of any certificate shall not confer upon him any right to retain the same as against any person having a better title thereunto, who shall be at liberty to sue for and recover the same, and all benefits thereto belonging, in the said Supreme Court, by such proceeding as the said Court shall direct.

XIV. When the said assessment shall have been completed the Commissioners shall give notice thereof in the Government Gazette, and after the expiration of three weeks next following the publication of such notice shall proceed to collect the assessments, and if necessary to levy them by distress and sale of any

goods found on the said lands, or by sale of the lands assessed; and the said Commissioners shall keep accounts of the sums received for assessment, and pay the same from time to time into the Bank of Bombay.

XV. The said Commissioners, subject to the approval of the Governor of Bombay in Council, may employ such Surveyors, Accountants and Clerks as to them shall seem fit, and incur such other charges and make such disbursements from the said Foras Land Assessment Fund as may be necessary for executing the provisions of this Act.

XVI. The Commissioners may receive any portion of the assessment from any person, but any receipt granted by them for the same shall not affect the title to any lands in respect whereof the same shall have been paid; and, when the said Foras Land Assessment Fund, or such portion thereof as to the said Commissioners shall seem adequate, shall have been recovered, the said Commissioners shall redeem the certificates on demand by the holders thereof.

XVII. When, on the sale of any land or goods for satisfaction of any assessment, more money shall be raised than is required to pay the amount to be leived, the Commissioners shall pay the overplus to such person or persons as shall appear to them to have been entitled to the land or goods sold; or, if they are doubtful to whom they should pay the same, may pay such overplus to the Accountant General of the said Supreme Court, and any persons claiming to be entitled thereto may sue for and recover the same by such proceeding in the Supreme Court as the said Court shall direct.

XVIII. The Commissioners shall not be liable for the amount so paid to any person, in case another person having better title thereunto shall afterwards appear, but the same may be recovered from the party who received the same or his representatives at the suit of the person entitled thereunto.

XIX. The said certificates shall be transferable by endorsement.

XX. The said Commissioners, at any time after the said first day of July may grant a warrant to any person or persons to take and deliver to the Officers of the Bombay Government any of the lands mentioned in the said plan No. 2, which warrant shall

confer on such person or persons the same powers and rights which the Sheriff has for executing a writ of possession issued by the said Supreme Court.

XXI. The said Commissioners, with the consent of the Governor of Bombay in Council, to be signified in writing upon the said plan No. 2, under the hand of one of the Secretaries to the Government of Bombay, at any time before the completion of the assessment, may alter the plan No. 2, lodged with the said Commissioners, and corresponding alterations shall be made in the plan No. 1 lodged with the said Commissioners, and the Governor of Bombay in Council shall thereupon cause the like alterations to be made in the plans deposited in the Office of the Secretary to the Government of Bombay; and, if any such alterations shall be so made, the plans so altered shall to all intents and purposes of this Act be considered as the plans referred to by this Act. Provided always that, if any difference shall at any time appear between the plans deposited with the Commissioners and the plans deposited in the office of the Secretary to the Government of Bombay, the latter shall be deemed the original and authentic plans referred to by this Act.

XXII. No action at law or other proceeding shall be brought in any Court whatever against any Commissioner under this Act for any thing done or omitted to be done by him as a Commissioner thereunder; and a certificate in writing under the hand of one of the Secretaries to the Government of Bombay shall be evidence that any such act or deed of commission or omission complained of was done by the Commissioners in execution of their powers as such Commissioners under this Act.

XXIII. On the close of the business of the said Commission, the records thereof shall become and be made a record of the Bombay Government.

XXIV. If, at the closing of the said Commission, there should appear to be any unappropriated balance of the said Foras Land Assessment Fund, the same shall be paid to the Municipal Fund of Bombay; and, if the said Foras Land Assessment Fund should prove insufficient to answer the charges upon it, the deficient amount shall be paid from the said Municipal Fund, upon an order or orders to be signed by the said Commissioners,

countersigned by one of the Secretaries to the Government of Bombay.

FIRST SCHEDULE.

Containing the form which may be adopted for the Estimate mentioned in this Act.

No. in Plan.	Quantity in Square Yards.	Value including Improvements.

Assessment.

No. in Plan.	Quantity in Square Yards.	Amount of Assessment.

SECOND SCHEDULE.

Containing the form which may be used for summonses for witnesses.

Commission under the Foras Land Act.

You are required to attend the Commissioners on at o'clock the day of to give evidence under the provisions of Act No. VI. 1851.

(Signed) _____

_____

_____

Commissioners.

THIRD SCHEDULE.

Containing the form which may be used for Certificates.

Foras Land Act VI. 1851.

This is to certify that the holder of this Certificate is a Claimant on the Foras Land Assessment Fund in respect of land taken for public purposes under Act VI. 1851, for the sum of Rupees

(Signed)

Commissioners.

BOMBAY.—DECREES.

Repealed by X of 1861

ACT No. VII. OF 1851.

[*Passed on the 13th June*, 1851.

Recites expediency of altering law relating to execution of decrees.

1. *Repeals R. 4, S. 61, cl. 2, and R. 29, S. 7, cl. 3, of 1827 of B. Code.*

2. *Enacts. Decrees in Civil Suits, whether original or in appeal, to be executed by Court in which the Original Decree was passed, and execution to be applied for to that Court.*

To amend the law of the Bombay Presidency relating to execution of Decrees.

Whereas it is necessary to amend the Law of the Bombay Presidency, relating to execution of Decrees, It is enacted as follows:

I. Clause 2nd Section LXI. Regulation IV. and Clause 3rd, Section VII. Regulation XXIX. 1827, of the Bombay Code, are repealed.

II. Decrees in Civil Suits, whether original or in appeal, shall be executed by the Court in which the original Decree was passed, and every application for execution of a Decree shall be made to the Court in which the Decree was originally passed.

TOLLS, BRIDGES AND ROADS.

ACT No. VIII. OF 1851.

[*Passed on the 4th July*, 1851.

Recites expediency of enabling Government to levy Tolls on Roads, &c.

1. *Repeals Acts 2, 1837, and 8, 1838, but not so as to revive Acts repealed thereby.*

2 The Presidency Governors (in Council) respectively may cause Tolls not exceeding rates in Schedule annexed to be levied on any Bridge or Road made or repaired by Government, and appoint persons to collect the same.

3. In case of non-payment of Toll on demand, Toll Collector may seize carriages or animals chargeable, and after 24 hours may sell the same, after notice of auction. Property seized to be released on tender.

4. No Tolls to be paid for passage of Troops and Military Stores and Equipage on march, or of Police, or property in their custody.

5. Police to assist Toll Collectors in execution of this Act.

6 Persons not appointed to collect Tolls, or persons demanding, &c. more than legal Tolls, or knowingly seizing, &c. property unlawfully, to be liable on conviction to not more than 6 months' imprisonment, or fine not exceeding 200 Rupees, &c.

7. Table of Toll and Penalties to be put up near Toll-gate.

8 The Tolls to be deemed public revenue, but proceeds to be wholly applied to Roads and Bridges, &c.

Schedule

An Act for enabling Government to levy Tolls on Public Roads and Bridges.

Whereas it is expedient to enable Government to levy Tolls upon Roads and Bridges, It is enacted as follows:

I. Acts II. of 1837 and VIII. of 1838 are repealed, but not so as to revive any Regulation or Act thereby repealed.

II. The Governor of the Presidency of Fort William in Bengal, the Lieutenant Governor of the North Western Provinces of Bengal, the Governor of the Presidency of Fort St. George in Council, and the Governor of the Presidency of Bombay in Council, may cause such rates of Toll, not exceeding the rates mentioned in the Schedule annexed to this Act, as they respectively think fit, to be levied upon any road or bridge which has been, or shall hereafter be made or repaired at the expense of the Government; and may place the collection of such Tolls under the management of such persons as may appear to them proper: and all persons employed in the management and collection of such Tolls shall be liable to the same responsibilities, as would belong to them, if employed in the collection of the Land Revenue.

III. In case of non-payment of any such Toll on demand, the Officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the Toll; and, if any Toll

remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the Officer appointed to superintend the collection of the said Toll, who may sell the property seized for discharge of the Toll, and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said Officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any close holiday, he will sell the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expences incurred, and of double the Toll payable by him, the said Officer shall forthwith release the property seized.

IV. No Tolls shall be paid for the passage of Troops and Military Stores and Equipages on their march, or of Police Officers on duty, or of any person or property in their custody: but no other exemption from payment of the Tolls levied under this Act shall be allowed.

V. All Police Officers shall be bound to assist the Toll Collectors, when required, in the execution of this Act; and for that purpose, shall have the same power which they have in the exercise of their common Police duties.

VI. Every person, other than the persons appointed to collect the Tolls under this Act, who shall levy or demand any Toll on any public road or bridge, or for passing through any bazar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other, or higher Toll than the lawful Toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money, or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six Calendar months, or to fine not exceeding two hundred Rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved: but this remedy shall not be deemed to bar, or affect his right to have redress by suit in the Civil Court of the Zillah.

VII. A Table of the Tolls authorized to be taken at any Toll-gate or Station shall be put up in a conspicuous place near such

gate or station legibly written or printed in English words and figures, and also in those of the Vernacular language of the district to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the Tolls and for taking any unlawful Toll.

VIII. The Tolls, leived under this Act, shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges, within the Presidency in which they are levied.

Repealed by XV

SCHEDULE.

On every four-wheeled Carriage on Springs, - -	2 Rupees.
On every two-wheeled Carriage on Springs, (except Native Hackeries,) - - - - - -	1 Rupee.
On every Native Hackery on Springs, - - -	2 Annas.
On every four-wheeled Carriage without Springs, -	6 Annas.
On every two-wheeled Carriage without Springs, . -	4 Annas.
On every Cart and Hackery not on Springs, and having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches,	8 Annas.
On every Cart and Hackery not on Springs and not having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches, - - - - - - - - -	2 Annas.
Buffaloes or Bullocks per head, - - - - -	6 Pie.
On every Elephant, - - - - - - -	1 Rupee.
On every Camel, - - - - - - - -	4 Annas.
On every Horse, - - - - - -	1 Anna.
On every Tattoo, - - - - - -	6 Pie.
On every score of Sheep or Goats, - - -	2 Annas.
On every herd of Swine per hundred, - - -	4 Annas.
On every Mule, - - - - - - -	3 Pie.
On every Ass - - - - - - -	2 Pie.
On every Palanquin or Tonjon with Bearers, - -	1 Rupee.
On every Palna or small Native Palanquin with Bearers, - - - - - - - - -	4 Annas.
On every Native Dooly with Bearers, - - -	2 Annas.
On every Person carrying a load for hire, - - -	2 Pie.

N. B. Animals drawing any Vehicle for which Toll can be demanded are not to be also charged with Toll.

BOMBAY.—GAMBLING.

ACT No. IX. OF 1851.

[*Passed on the 11th July*, 1851.

Recites increase of Gambling.

1. *Repeals part of Art. 2, tit. 5, of Rule 11th, April* 1827, *reg. 22d June*, 1827.

2. *Enacts. Persons in the town and island of B. keeping a common gaming house, &c. or conducting the business thereof as Banker, &c. to be liable on conviction to fine not exceeding* 1000 *Rupees, or imprisonment for not exceeding* 6 *Calendar months, &c.*

3. *What shall be sufficient proof of house, &c. being a common gaming house, viz., being kept or used for playing cards, &c. and a bank being kept there by one or more players exclusively, or that the chances are not equal for all the players, &c.*

4. *Every person found in common gaming house playing, &c. or present for purposes of gaming, or found gaming in public street, &c. shall be liable to fine not exceeding* 500 *rupees, or imprisonment not exceeding* 3 *Calendar months, &c.*

5. *Magistrate on information of suspicion of house being used as common gaming house may issue warrant to seize persons and things and make search, &c.*

6. *Cards, dice, gaming table or cloth being found therein shall be evidence of house, &c. being common gaming house, and that persons found were there for purpose of gaming.*

7. *Instruments of gaming found in house, to be destroyed on conviction of person, &c.*

8. *Persons in act of gaming in streets, and cards, &c. in their possession, may be seized by Police without warrant.*

9. *Not necessary in order to convict, to prove that person was playing for money, &c.*

10. *Person concerned in any unlawful gaming, examined as witness and making true and faithful discovery, shall on receiving from Court a certificate to that effect, be exempt from prosecution for previous gaming.*

11. *This Act not to apply to games of mere skill played at principal Hotels or Taverns.*

12. *Every person who shall by fraud or unlawful device or ill practice in playing at cards, &c. or in bearing a part, &c. or in betting, &c. or in wagering, &c. win any money or valuable thing, &c. shall be deemed guilty of obtaining by false pretence with intent to cheat, &c. and be punished accordingly.*

13. *No conviction, &c. under this Act to be quashed, &c. for want of form or be removed by Certiorari.*

14. *Fines under this Act to be recovered under Act* 2, 1839.

15. *Not exceeding one-fourth of fine or of proceeds of articles seized may be paid to informer, and balance shall be paid to Municipal Fund.*

An Act for the prevention of Gambling in Bombay.

Whereas the vice of Gambling has of late years much increased, and many gaming houses have been established within the Town and Island of Bombay, for suppression of which the laws now in force are inadequate, It is enacted as follows:

I. So much of Article II. of Title Fifth of a Rule, Ordinance and Regulation passed by the Governor of Bombay in Council on the 11th day of April 1827, and registered in the Supreme Court of Bombay on the 22nd day of June 1827, as provides that the Court of Petty Sessions shall exercise jurisdiction over common gamblers who shall not give a satisfactory account of any other means of livelihood, is repealed.

II. Every person who, within the Town and Island of Bombay, shall keep a common gaming house, or any room, or other place used for the purposes of a common gaming house, or who shall have the care or management thereof, or shall in any manner conduct the business of any such common gaming house, either as Banker, Shroff, Croupier or otherwise, shall, on conviction before the Court of Petty Sessions, be punishable by fine not exceeding One Thousand Rupees, or, in the discretion of the said Court, may be imprisoned with or without hard labour for any period not exceeding six Calendar months.

III. And, whereas it may be doubted, whether or not certain houses or rooms alleged or reputed to be opened for the use of the subscribers only, or not open to all persons desirous of using the same, are to be deemed common gaming houses, it is declared and enacted that, in default of other evidence proving any house, room, or place to be used as a common gaming house, it shall be enough, in support of the allegation in any information or indictment that any house, room, or place is a common gaming house, to prove that such house, room, or place is kept or used for playing therein at cards, dice, or any unlawful game, and that a bank is kept there by one or more of the players exclusively of the others, or that the chances of any game played therein are not alike favourable to all the players, including among the players, the banker or other person by whom the game is managed, or against whom the other players stake, play

or bet; and every such house, room, or place shall be deemed a common gaming house.

IV. Every person who shall be found in any such common gaming house playing or gaming with cards, dice, counters, money, or other instruments of gaming, or who shall be found there present during such playing or gaming or for the purpose of gaming, or who shall be found gaming with cards, dice, counters, money, or other instruments of gaming in any street or public place or thoroughfare within the said town and island, whether playing for any money, wager, stake, or otherwise, shall be punishable, on conviction before the Court of Petty Sessions, by fine not exceeding Five Hundred Rupees; or in the discretion of the said Court, may be imprisoned with or without hard labour for any period not exceeding three Calendar months.

V. Any Magistrate of Police, upon information laid before him on oath that there is reason to suspect any house, room, or place within the said town and island to be used as a common gaming house, may, by his warrant, give authority to any Constable of Police in the town and island of Bombay to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all monies and securities for money found therein, and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed; and to search also the persons of those whom he so takes into custody, and to seize and take possession of all cards, dice, counters, and other instruments of gaming which he shall find upon such search.

VI. When any cards, dice, gaming table or cloth, or other instruments of gaming are found in any house, room, or place of which information has been given on oath to a Magistrate of Police, that it is suspected of being used as a common gaming house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming house, and that the persons found therein were there present for the

purpose of gaming, although no play was actually seen by the Constable or any of his Assistants.

VII. On conviction of any person for keeping or being present for the purpose of gaming in any common gaming house, all the instruments of gaming found therein shall be destroyed by order of the Court of Petty Sessions, which shall also order all, or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited, or in its discretion may order any part thereof to be returned to the parties appearing to have been severally thereunto entitled.

VIII. Any Officer of Police may arrest without warrant all persons whom he may see in the act of gamming in any street or public place or thoroughfare in the said town or island, and seize all cards, dice, counters, and instruments of gaming which he finds in their possession, which, on conviction of any of the parties, shall be destroyed by order of the Court.

IX. It shall not be necessary, in order to convict any person of keeping a common gaming house or of being concerned in the management of any common gaming house or gaming table, to prove that any person found playing at any game was playing for any money, wager, or stake.

X. Any person who shall have been concerned in any unlawful gaming, and who shall be examined as a witness before the said Court of Petty Sessions, on the trial of any person or persons for a breach of any of the provisions of this Act, and who upon such examination shall make true and faithful discovery to the best of his or her knowledge of all things as to which he or she shall be so examined, and who shall thereupon receive from the said Court a certificate in writing to that effect, shall be freed from all prosecutions under this Act for any thing done before that time in respect of such unlawful gaming.

XI. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at Hotels or Taverns licensed by the Collector of Land Revenue, and the Senior Magistrate of Police under Act XVIII. of 1840, or in any place of public resort licensed by the Court of Petty Sessions under Act XIV. of 1842.

XII. Every person who shall by any fraud or unlawful device or ill-practice in playing at or with cards, dice, or other game, or in bearing a part in the stakes, wagers or adventures, or in betting on the sides or hands, of them that do play, or in wagering on the event of any game, sport, pastime or exercise, win from any other person for himself, or any other or others any sum of money or valuable things, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and being convicted thereof shall be punished accordingly.

XIII. No conviction or other proceeding before the said Court of Petty Sessions under this Act shall be quashed, or set aside or adjudged void or insufficient for want of form, or be removed by Certiorari into Her Majesty's Supreme Court.

XIV. All fines imposed under this Act shall be recovered under Act II. of 1839.

XV. The Court of Petty Sessions shall on conviction have power to direct any portion, not exceeding one-fourth of any fine which shall be levied under the provisions of this Act, or any part of the monies or proceeds of articles seized in any common gaming house and ordered to be forfeited, to be paid to an informer, and the balance of such fines and monies or the whole thereof, as the case may be, shall be applied to the use of the Municipal Fund under Act XI. of 1845.

ADMINISTRATION OF ESTATES.

Repealed by XXVII 07/60

ACT No. X. OF 1851.

[*Passed on the* 18*th July*, 1851.

1. *In case of dispute between Joint Proprietors of any Public Securities of the E. I. C. as representives of deceased person, the Zillah Judge may grant limited Certificate according to Act* 20, 1841, *to Official Trustee, who shall receive interest on such Securities and pay same to persons certified as entitled, and may charge same Commission as Government Agent. But rights of other claimants not to be prejudiced by Certificate, &c.*

2. *If disputes among joint claimants are not made in two years from date of Certificate, Official Trustee may distribute the principal rateably among the claimants, &c.*

3. *Every Certificate under this Act shall annul previous Certificate as respects any smaller portion of the same Securities.*

4. *British representative in Foreign States may grant Certificate under this Act.*

5. *This Act to be construed as part of Act* 20, *of* 1841.

To amend Act XX. of 1841 for the Administration of personal Estate of deceased persons.

For amendment and extension of the power to grant Certificates of Administration of the personal Estate of deceased persons under Act XX. of 1841, It is enacted as follows:

I. In the case of disputes among persons, claiming to be jointly entitled to be proprietors of any public Securities of the East India Company, as the representatives of any deceased person, the District or Zillah Judge, whenever sufficient cause shall be shown to him, and on the request of any such claimant, may grant a Certificate of Aministration of the personal Estate of the deceased, so far as concerns the said Securities, according to Act XX. of 1841, to such person as shall be from time to time appointed by the Governor of Bengal, and Governors of Madras and Bombay in Council respectively, to act as Trustee under this Act; and shall specify in such Certificate the several persons appearing to him to be such proprietors, and their several shares; and the said Trustee, by virtue of such Certificate, shall be entitled to receive and give discharges for the interest accruing due on such Securities; and shall account for, and pay the sum to the several persons specified in the Certificate to be thereunto entitled according to the shares therein set forth; and shall be empowered to act in all other respects concerning the said Securities as Agent for such persons; and shall be entitled to the same rate of Commission upon all such transactions as is allowed to the Government Agent for the time being on the like transactions, as Agent of the public creditors of the East India Company by any Regulations from time to time made by the Governor General of India in Council: Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid, by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

II. If any such disputes, among persons claiming to be proprietors of public Securities of the East India Company, are not

ended within two years from the date of the Certificate of Administration granted by any District or Zillah Judge, the said Trustee may apportion the principal sum of the said Securities rateably among the parties appearing from the aforesaid Certificate to be proprietors thereof, and may apply for and receive new Securities from the proper Officer appointed to issue the same, in the respective names of the several parties certified to be entitled thereto; provided that such new Securities shall be issued only according to the rules in use for the regulation and issue of such public Securities; and the receipt of the said Trustee for such new Securities, by endorsement on the old Securities, or otherwise, shall be a legal discharge to the East India Company against the disputing parties claiming to be entitled to the several amounts for which such Securities shall be issued: Provided always that if the amount of any Securities in dispute or any part thereof, shall not be sufficient to admit of their rateable division according to the Rules applicable to the issue of such Securities, the said Trustee may sell, and dispose of the disputed Securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

III. Every such Certificate, granted to the Trustee appointed under this Act, shall be taken to supersede and annul any previous Certificate given of a half or any other share in the said personal Estate, so far as concerns the said Securities.

IV. As regards Residents in Foreign States, out of the jurisdiction of British Courts of Justice, a Certificate of Administration to personal Estates granted by the British Representative accredited to that State, or as regards the Residents in any district to which Act XX. of 1841 does not extend, such certificate granted by the British Officer in that district, holding the highest executive authority, shall have the same effect, as regards public Securities of the East India Company, as a Certificate granted to a native subject of Her Majesty under the provisions of Act XX. of 1841, as amended by this Act.

V. This Act shall be construed with and as part of Act XX. of 1841.

BENGAL.—REGISTRATION OF DEEDS.

ACT No. XI. OF 1851.

[*Passed on the 26th September*, 1851.

Recites provisions of Act 30, 1838. *Enacts that Register books shall be deposited in office of Magistrate, &c.*

For the Custody of Registers of Deeds in the Presidency of Bengal.

Whereas by Act XXX. 1838, provision was made for the establishment of offices for the Registry of Deeds at any civil stations, under the superintendence of any officer resident at such stations whom Government may nominate for that purpose, and whereas the deposit of such registers among the records of the Dewanny Adawlut, as required by Regulation XXXVI. 1793 of the Bengal Code and other Regulations cited in the said Act is inconvenient, It is enacted as follows:

The Register Books of offices established under Act XXX. 1838 shall be deposited in the Lower Provinces of the Presidency of Bengal, among the records of the Magistrates or Joint Magistrates, and in the North-Western Provinces of the said Presidency, among the records of the Collectors of the stations where such offices have been, or shall be hereafter established.

MADRAS.—LAND REVENUE.

ACT No. XII. OF 1851.

[*Passed on the 14th November*, 1851.

1. *Assessable lands in Madras not assessed, to be assessed at customary rates.*

2. *Lakhiraj tenures of sixty years standing and none of less to be valid.*

3. *Collector to determine rate of assessment, subject to an appeal.*

4, 5, 6. *Collector may have rent-paying lands measured to ascertain the exactness of assessed quantity: and* (5) *order an abatement when assessed at too much; and* (6) *an increase when assessed at too little.*

7. *After demand in writing, rent may be recovered by distress and sale of goods and chattels. Collector may appoint bailiffs and appraisers to make and appraise, &c. distresses.*

8. *Rent paid to East India Company by under tenant may be deducted by him from his own rent.*

9. *Land revenue or rent of East India Company to have priority over all other claims as respects property liable.*

10. *Distress to proceed notwithstanding liability disputed, unless amount is deposited.*

11. *Arrears of rent removeable for six years after due or after acknowledgement in writing.*

12. *Claim to hold land rent free to be referred by Collector to Board, if disallowed by Board, land to be assessed, subject to Civil Suit.*

13. *Obstructing Collector, &c. to be punishable by fine and in default of payment by imprisonment.*

14. *Collector may punish contempts.*

15. *Collector to act under superior revenue authorities.*

16. *Ground rents of East India Company to be deemed revenue within* 21 *Geo.* 3 *Cap.* 70.

17. *Actions for trespass or injury committed under color of Act to be tried in East India Company's Courts, &c. and no action to lie more than* 6 *months after cause arose.*

18. *Interprets the words "Collector" and Board of Revenue.*

An Act for securing the Land Revenue of Madras.

Whereas it is expedient that the land revenue accruing due to the East India Company at Madras, within the limits of the Town of Madras as defined in Section XII., Regulation II. of 1802, of the Madras Code, should be ascertained and collected in as summary a manner as in other parts of the territories under the Government of the East India Company, It it enacted as follows:

I. All assessable lands not the property of the East India Company, within the limits of the Town of Madras, as defined in Section XII., Regulation II. of 1802, of the Madras Code, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rates customarily charged upon lands of a similar description in the neighbourhood according as they may be situated respectively within or without the walls of Black Town.

II. Lakiraj tenures of land in Madras, of which uninterrupted possession has been held under alleged grants, exempt or partially exempt from assessment for sixty years, shall be valid: no other lakiraj tenures of land in Madras shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.

III. The Collector of Madras shall determine the rate of assessment to be laid on assessable land under Section I. of this

Act, with reference to the rate assessed upon other land of a similar description in the neighbourhood, subject to an appeal to the Board of Revenue, to be made within six months from the notification by the Collector of the assessment fixed by him. The decision of the Board of Revenue upon such appeal shall be final.

IV. The Collector may order any assessable land, or land already assessed, or charged with a rent payable to the East India Company, to be measured, for the purpose of determining the amount of assessment to be imposed, or, in the case of land already assessed or charged with a rent, for the purpose of ascertaining whether the actual dimensions, and the dimensions upon which the amount of assessment or rent, was calculated, correspond.

V. Whenever, upon the measurement of any land under the preceding Section, it shall be found that the dimensions upon which the amount of assessment or rent was calculated exceed the actual dimensions, a proportionate abatement shall be made for the excess, on the demand of the party entitled to claim it.

VI. On the other hand, when the actual dimensions exceed the dimensions upon which the amount of assessment or rent was calculated, the excess shall be charged at the same rate as the rest of the land, the possession being left undisturbed. Provided that, when it shall appear that the excess has been caused by the surreptitious usurpation of ground belonging to another tenure, the act of the Collector in assessing it shall not prejudice the holder of such other tenure in any effort he may make to recover the ground usurped from it. An appeal shall lie to the Board of Revenue against any extra assessment or additional rent charged by the Collector for excess by measurement under this Section, if preferred within six months from the date of the Collector's order. Upon such appeal the decision of the Board of Revenue shall be final.

VII. If any owner of assessed land or any person holding land subject to a rent payable to the East India Company, shall upon the written demand of the Collector, refuse or neglect to pay any sum at which the land is assessed, or with which it is charged as rent, the Collector may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee; or, after written demand upon the tenant or occupier, and on his refusal or neglect to pay the sum lawlully demanded, by distress and

sale of any goods and chattels found upon the land, in the manner appointed for regulating distresses for small rents in Calcutta by Act VII. of 1847, extended to Madras by Section 89, Act IX. of 1850, and for the purpose of any such distress and sale, the Collector shall have all the powers of a Judge of the Court of Small Causes under Section 89, Act IX. of 1850, aforesaid; and the Collector shall have power to appoint any of his Officers to perform the duties of Bailiffs and Appraisers, and of the Chief Clerk of the said Court, as provided by the said Act VII. of 1847, and all the provisions of the said Act relating to the Commissioners for the recovery of small debts and their Court, shall be deemed to apply to the said Collector and his Office in the execution of this Act.

VIII. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

IX. The claim of the East India Company for land revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

X. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

XI. Arrears of rent or revenue due to the East India Company are recoverable within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable, or his Agent, and not afterwards.

XII. When a claim to hold land lakiraj, or free of assessment, shall be set up under this Act, the Collector shall inquire into the claim; taking such evidence as the claimant may offer, or the public records supply; and shall report his proceedings in the case for the consideration of the Board of Revenue. If the Board of Revenue are satisfied of the validity of the claim, they shall make an order accordingly, and such order shall be final. If they are not satisfied of the validity of the claim, they shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts, as herein provided.

XIII. Any person obstructing or molesting the Collector, or any of his subordinate officers in the execution of their duty, shall, on conviction before a Magistrate of the Town of Madras, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common gaol for a term not exceeding six months, or until the fine is sooner paid.

XIV. The Collector may punish any contempt committed in his presence in open cutcherry or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common gaol for a term not exceeding one month. From every such order of fine or imprisonment an appeal shall lie to the Board of Revenue, whose decision shall be final.

XV. The Collector shall act in the execution of this Act, under the usual control of the superior revenue authorities.

XVI. The ground rents payable to the East India Company from lands in Madras are revenue within the meaning of the Act of Parliament, 21 Geo. III. Cap. 70; and the Supreme Court of Judicature established by Royal Charter at Madras has not any civil jurisdiction concerning the said ground rents or concerning any thing ordered or done in the assessment or collection thereof.

XVII. All actions concerning any trespass or injury committed by any revenue officer, acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any monies paid to, any revenue officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company, in the Zillah of Chingleput, notwithstanding that the cause of action in respect of which such action is brought, arose, or the defendant therein reside, within the limits of the Town of Madras, and every such action shall be brought within six months after the cause of action arose, and not afterwards.

XVIII. The words "Collector" and "Board of Revenue" used in this Act, shall be taken to mean any person or persons lawfully appointed to exercise the powers vested in the Collector and Board of Revenue respectively under this Act.

SIR THOMAS TURTON'S DEBTS.

ACT. No. XIII., OF 1851.

[*Passed on the 21st November*, 1851.

Repeals so much of S. 3 of Act No. 5 as directs payment to be made of debts mentioned in Schedules B and D.

An Act to amend Act No. V. of 1851.

Whereas by Section III. of Act No. V. of 1851, it was, among other things, enacted, that the Accountant General of Bengal was authorized and required from time to time, to direct the Sub-Treasurer to pay, and the Sub-Treasurer should thereupon pay out of the monies of the East India Company in his custody, such sums as would be sufficient to pay off and discharge to such persons as should appear to be entitled thereunto as the lawful representatives of the Intestates and others named in the Schedules A, B, C, D, annexed to the Report therein mentioned, the several principal sums of money which, upon the final adjustment of the accounts of their several claims and estates, should appear to have been due to them respectively from Sir Thomas Turton, on the 25th day of February 1848, and to be then still due and unsatisfied: And whereas the Court of Directors of the East India Company acting in pursuance of the power and authority to them given and reserved by the 44th Section of an Act of Parliament, passed in the 4th year of the reign of his late Majesty King William the Fourth, entituled "an Act for effecting an arrangement with the "East India Company, and for the better government of His "Majesty's Indian Territories till the 30th day of Apil 1854," have signified to the Governor General in Council their disallowance of so much of the said third Section of Act No. V. of 1851, hereinbefore recited, as relates to the payment and discharge to the lawful representatives of the Intestates and others named in the said Schedules B, and D, of the several principal sums of money therein mentioned; It is enacted as follows:

I. So much of the 3rd Section of Act No. V. of 1851, hereinbefore recited, as relates to the payment and discharge to the lawful representatives of the Intestates and others named in the said Schedules B, and D, of the several principal sums of money therein mentioned, is hereby repealed.

STRAITS SETTLEMENTS.—EXCISE LAW.

ACT No. XIV. OF 1851.

[*Passed on the 21st November*, 1851.

1. *Repeals R.* 2, 4, 5 *of* 1830 *of Governor of Settlements; R.* 4, 1831 *and Act* 5, 1833 *and R.* 10, 1833.

2. *Right of making Chandoo, &c. and of retailing Chandoo, &c. and of retailing Spirituous Liquors, &c. and of making Arrack, &c. and of selling Toddy, &c. within Straits Settlements to be vested in licensed dealers, &c.*

3. *Persons having the above mentioned exclusive rights to be respectively called "Opium Farmer," "Spirit Farmer," "Toddy Farmer," &c.*

4. *Number of houses permitted to be licensed, to be fixed by Governor, &c.*

5. *Superintendent of Police to issue licenses to persons to whom exclusive right is granted, who are to pay fees specified.*

6, 7. *Farmers selling, &c. Opium, &c. otherwise than for current coin to be liable to penalty; and* (7) *same provision against any persons paying wages of servants or labourers with Opium, &c.*

8, 9. *Keeper of registered house, &c. allowing gambling therein, to be liable to penalty, and* (9) *same provision against allowing persons with offensive weapons, &c. to be therein.*

10. *Persons other than Farmers making, importing or receiving Chandoo, &c. to be liable to penalty, and the prohibited article liable to be seized, &c.*

11. *Persons other than Opium Farmer selling, &c. or buying from other than Opium Farmer less than a chest, &c. to be liable to penalty,*

12. *But these provisions not to apply to Medical Practitioners, &c.*

13, 14. *Persons importing into Settlement, &c. or having control over raw Opium less than a chest to be liable to penalty, but* (14) *if person having such Opium in* 24 *hours after arrival of ship gives notice to Opium Farmer, he may have a permit to land or deposit same, &c. and if he does not give such notice, to be liable to penalty.*

15. *Person other than Opium Farmer exporting Opium by land, to be liable to penalty.*

16. *Prescribes what a person shall do, who is desirous of exporting less than a chest of Opium by sea.*

17. *Person having export permit and not shipping in conformity to it, to be liable to penalty.*

18. *Unauthorized person making Chandoo, &c. for consumption on ship board liable to penalty, &c.*

19. *Person buying or selling, &c. Opium less than a chest to be liable to penalty, &c.*

20. *Justice of the Peace on information may issue warrant to search for, &c Opium, &c.*

21. *Person other than the Opium Farmer selling Tye-Chandoo, &c. to be liable to penalty.*

22. *Registered Opium Shop keeper selling Opium not bought from Opium Farmer, liable to penalty.*

23. *Prescribes what a person other than the Spirit Farmer shall do, who imports Spirituous Liquor, &c. into Settlement, &c.*

24. *Persons other than Spirit Farmer selling otherwise than for exportation, Spirituous Liquor, &c. in less than specified quantity to be liable to penalty.*

25. *Persons other than Spirit Farmer, removing, &c. Spirituous Liquor, &c. from one shop, &c. to another without permit to be liable to penalty.*

26. *Spirit Farmer to grant permit for removal of Spirituous Liquor within certain hours, &c.*

27. *J. P. may grant Warrant to Spirit Farmer to enter houses, &c. examine Spirits, &c.*

28. *Tavern keepers may sell Spirits to be drunk on premises, &c.*

29. *Eating House keepers, &c. selling Spirits, &c. not bought of licensed dealer to be liable to penalty, &c.*

30. *Spirit Farmer and registered Eating House keeper, &c. selling, &c. to European or Native Soldier Spirits without authority in writing of Commanding Officer to be liable to penalty.*

31. *Spirit Farmer, &c selling, &c. adulterated Spirits, &c. to be liable to penalty, &c.*

32. *Sugar manufacturers also desirous of having distillery at Sugar house, to obtain license from Superintendent of police.*

33. *Licensed distiller to sell to no one but Spirit Farmer for exportation less than specified quantity of Spirits.*

34. *Person other than Spirit Farmer, &c. distilling, &c. Spirits, &c. or keeping still, &c. to forfeit penalty.*

35. *Person other than Spirit Farmer distilling Samsoo, &c. or keeping still, &c. to be liable to penalty.*

36. *Samsoo not to be landed, except for sale to Spirit Farmer, &c.*

37. *This Act not to apply to Spirit, &c. imported and exported on account of Government.*

38, 39. *Toddy and Bang to be sold by producer only to Toddy Farmer, &c. and* (39) *other persons having any in their possession, not purchased of Farmer to be liable to penalty.*

40. *Registered Toddy Shop keeper selling Toddy, &c. which he cannot prove to have been purchased of Farmer, to be liable to penalty, &c.*

41. *Toddy Farmer, &c. knowingly selling Toddy, &c. to European or Native Soldier, without written authority of Commanding Officer to forfeit penalty.*

42. *License fees, to whom to be paid, penalties, &c. to be paid to "Municipal Fund."*

43, 44, 45. *J. P. may issue search warrant to search for, &c. articles subject to forfeiture and may order arrest of persons, &c. and* (44) *Peace Officer may arrest without warrant persons found committing breach of Act; but* (45) *Peace Officers so doing without reasonable ground to be liable to penalty.*

46. *Revenue Officer not to act under this Act unless specially appointed so to do, &c.*

47. *Farmer, &c. taking from offenders, &c. against this Act, a bribe to compromise, liable to penalty.*

48. *Convictions may be obtained either on confession, or evidence, and penalties to be levied by distress, &c. and in lieu of penalty offender may be imprisoned.*

49. *Convictions under this Act to be in Schedule form, and not liable to be questioned, and warrant of commitment not to be avoided for defect of form.*

50. *Dependencies on Straits Settlements to be included in this Act.*

51. *Act to take effect from 1st May,* 1852.

Schedule *A, B, C, D, E, F.*

An Act for consolidating the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs in the Settlement of Prince of Wales' Island, Singapore and Malacca.

Whereas it is expedient to make better provision for the collection of a Revenue of Excise upon Opium, Chandoo, Toddy and Bang, Arrack and Spirits, and the granting of Excise Licenses for the sale of the said Articles by retail within the Settlement of Prince of Wales' Island, Singapore and Malacca, It is enacted as follows:

I Regulations II., IV., and V. of 1830, passed by the Governor of Prince of Wales' Island, Singapore and Malacca in Council, Regulation IV. of 1831 and Act No. V. of 1839, passed by the President of the Council of India in Council, and Regulation X. of 1833, passed by the Governor General of India in Council are repealed.

II. The exclusive right of making Chandoo or other preparation of Opium for smoking, and of retailing Chandoo, or Opium in smaller quantities than one chest; and the exclusive right of retailing Spirituous Liquors and Arrack in less quantities than One Hundred and Sixty Gallons, and of making and distilling Arrack and Spirituous Liquors; and the exclusive right of selling Toddy and Bang within the Settlement of Prince of Wales' Island, Singapore and Malacca, shall be vested, from time to time, in such persons as the Governor, or other Chief Civil Authority of the said Settlement, or such public Officer by him thereto authorized may license for that purpose, on such conditions as may be determined, either by public or private sale of such exclusive right.

III. Any person in whom the exclusive right of making Chandoo or other preparation of Opium for smoking, and of retailing Opium in smaller quantities than one chest shall be vested, shall be called the "*Opium Farmer* of Prince of Wales' Island,

or of Singapore, or of Malacca, as the case may be.," and the person in whom the exclusive right of retailing Spirituous Liquors and Arrack in less quantities than One Hundred and Sixty Gallons, and of making and distilling Arrack and Spirituous Liquors shall be vested, shall be called the "*Spirit Farmer* of Prince of Wales' Island, or of Singapore or of Malacca as the case may be;" and the person in whom the exclusive right of selling Toddy and Bang shall be vested, shall be called the "*Toddy Farmer* of Prince of Wales' Island, or of Singapore, or of Malacca, as the case may be."

IV. The number of Houses or Shops to be severally registered under this Act for the retailing, or smoking of Chandoo or prepared Opium, and for retailing Spirituous Liquors and Arrack, and for the retail of Toddy or Bang, within the said Settlement and places, shall be determined, from time to time, by the Governor or other Chief Civil Authority of the said Settlement, or by such public Officer or Officers as he may authorize for that purpose; and the said Houses or Shops shall, as regards their situation and hours for opening and closing, be subject to such Rules and penalties as the said Governor or other Chief Civil Authority shall, from time to time, make in that behalf.

V. The Superintendent of Police at each of the Stations of Prince of Wales' Island, Singapore and Malacca, shall grant to the keeper of every such House or Shop a License, which shall contain the name of the keeper or keepers, and the situation of the House or Shop, and shall be registered in the Police Office of the Station in which the same shall be granted; for which grant and registration the following Fees shall be paid, that is to say, for an Opium House, Three Dollars; for a Tavern, Five Dollars; for an Eating House or Spirit Shop, Three Dollars; for a Toddy Shop Two Dollars: and every such License may be recalled and cancelled by the Superintendent of Police with the sanction of the Chief Local Authority as occasion shall appear to him to require: and every person who shall open or keep such House or Shop, without having first obtained and registered such License, shall forfeit a penalty not exceeding Fifty Dollars.

VI. Every Farmer under this Act, and every keeper of any House or Shop registered under this Act, who shall sell or exchange Opium, prepared or unprepared, Spirituous Liquor or Arrack, Toddy or Bang, otherwise than for the Coin usually cur-

rent within the said Settlement, shall forfeit a penalty not exceeding Twenty-five Dollars.

VII. Every person within the said Settlement, who shall deliver to any servant or labourer any Opium prepared or unprepared, Spirituous Liquor or Arrack, Toddy or Bang, in consideration of wages or hire due to such servant or labourer, or on any account whatsoever, shall forfeit a penalty not exceeding Fifty Dollars.

VIII. Every keeper of any House or Shop registered under this Act, who shall allow any person to gamble therein, or in whose House any person shall be found gambling, shall forfeit a penalty not exceeding Twenty-five Dollars.

IX. Every keeper of any House or Shop registered under this Act, who shall knowingly allow any person to be therein, with any kind of Arms or offensive Weapon upon his person, shall forfeit a penalty not exceeding Fifty Dollars.

X. Every person, other than the Opium Farmer of the Station, who shall make Chandoo or any other preparation of Opium for smoking within the said Settlement, or who shall import thereto any Chandoo or Opium prepared elsewhere for smoking, or who shall sell or offer for sale or purchase, or who shall knowingly have or receive into his or her possession any such Chandoo or other preparation of Opium for smoking shall forfeit, for the first offence, a penalty not exceeding One Hundred Dollars; for the second offence, shall forfeit a penalty not exceeding Two Hundred Dollars; and for every subsequent offence, forfeit a penalty not exceeding Four Hundred Dollars: and all such contraband Chandoo or other preparation of Opium, and the receptacles in which the same is contained, and all vessels and utensils, which have been, or are plainly intended to be used in making Chandoo or any other preparation of Opium, shall be seized and forfeited.

XI. Every person, other than the Opium Farmer, who shall sell or offer for sale, and also every person who shall buy from any person other than the Opium Farmer any quantity of raw Opium less than one chest, save for exportation, shall forfeit, for the first offence, a penalty not exceeding One Hundred Dollars; for the second offence, forfeit a penalty not exceeding Two Hundred Dollars; and for every subsequent offence, forfeit a penalty not exceeding Four Hundred Dollars: and all such raw Opium shall be seized and forfeited.

XII. The foregoing provisions of this Act shall not apply to

the sale of Opium for Medicinal purposes by recognized Medical Practitioners, Chemists and Druggists.

XIII. Every person who shall import into the said Settlement any raw Opium in less quantity than one chest, or have in his possession, custody or control, any raw Opium in less quantity than one chest, unless for the purpose of being exported, shall forfeit a penalty not exceeding Four Hundred Dollars: and all such raw Opium so imported or found shall be seized and forfeited.

XIV. Every person arriving in any vessel at any of the Ports or Harbours of the said Settlement, who may have on board any Chandoo, or other preparation of Opium, or any raw Opium, in less quantity than one chest, shall, within twenty-four hours after such vessel shall have come to anchor, give notice thereof to the Opium Farmer, and shall apply to the Registrar of Imports and Exports, or his Deputy, for a Permit to land or deposit the said Opium, Chandoo, or other preparation of Opium in his Office, and on obtaining such Permit shall forthwith land, and so deposit the same, where it shall remain till re-exported, unless the same shall be sold to the Opium Farmer. Any person having on board such Opium, Chandoo, or other preparation of Opium, as above described, and failing to give notice, or otherwise not complying with the provisions of this Section, shall forfeit a penalty not exceeding Two Hundred Dollars, and the Opium, Chandoo, or other preparation of Opium shall be seized and forfeited.

XV. Every person, other than the Opium Farmer, who shall export any Opium by land, from the said Settlement, shall forfeit a penalty not exceeding Four Hundred Dollars: and the Opium and vessels and conveyances in which it is contained, shall be seized and forfeited.

XVI. Every person, who shall be desirous of exporting by Sea, or of selling for exportation by Sea, raw Opium, in any quantity less than one chest, shall deposit a chest containing the customary quantity in the Office of the Registrar of Imports and Exports; and whenever such person shall apply for any portion of such Opium to be delivered to him or to any purchaser thereof for exportation, he shall deliver to the Registrar of Imports and Exports, or his Deputy, a written Bill of Entry in duplicate, expressing the quantity of Opium that is to be exported, and the name

of the person who is about to export the same, and of the vessel, and of the master, and of the place to which the same is to be exported, and having also, in case the Opium mentioned therein is to be sold for exportation, the name of the purchaser written on the back thereof; and the said Registrar, or his Deputy shall, thereupon cause the quantity of Opium specified in the Bill of Entry to be taken out of such chest and delivered to the person who is to export the same, and shall deliver to such person one of the copies of such Bill of Entry, signed by the said Registrar or his Deputy, and having the hour upon which the same shall be so delivered marked thereon; and the Bill of Entry so signed shall be the Exporter's Permit to export the said Opium; and such chest shall remain in the custody of the said Registrar or his Deputy, until all the Opium contained therein shall have been exported or sold, when the chest shall be destroyed: and every person, who shall commit a breach of any of the provisions contained in this Section, shall forfeit a penalty not exceeding One Hundred Dollars.

XVII. Every person who shall receive any such Permit as aforesaid, for the exportation by Sea of any quantity of Opium less than one chest, and who shall not, upon receiving the same, forthwith cause such Opium to be conveyed to and placed on board of the vessel mentioned in such Permit, shall forfeit a penalty not exceeding Fifty Dollars, and the Opium, and the vessels and conveyances in which it is contained, shall be seized and forfeited.

XVIII. Every person, not thereunto authorized under this Act, who shall make Chandoo or other preparation of Opium for smoking on board of any vessel anchored or being within the limits of the jurisdiction of the Court of Judicature of the said Settlement, or in whose possession any such Chandoo or prepared Opium shall be found on board of such vessel, shall forfeit a penalty not exceeding One Hundred Dollars, and all such Chandoo or prepared Opium so made or found, shall be seized and forfeited.

XIX. Every person, who shall sell or buy or have in his possession save for the purpose of exportation under Section XVI. of this Act, on board any vessel anchored, or being within the limits of the jurisdiction aforesaid, any raw Opium in a less quantity than one chest, shall forfeit a penalty not exceeding One Hundred

Dollars: and all such raw Opium so sold or bought, shall be seized and forfeited.

XX. Any Justice of the Peace within the said Settlement, upon the information upon oath of any person, that he has good cause to believe that there is on board of any vessel anchored, or being within the limits of the jurisdiction aforesaid, any Contraband Opium or Chandoo or raw Opium, may issue his Warrant, in the form of Schedule (A) to this Act annexed, or to the like effect, authorizing the Opium Farmer, or any Revenue Officer duly appointed under this Act, or any Peace Officer to go on board of such vessel, and to make search for, and to seize such Opium or Chandoo, and to bring the offender or offenders in whose possession, custody or control the said Contraband Opium or Chandoo or raw Opium shall be found before a Justice of the Peace, to be dealt with according to this Act.

XXI. Every person, other than the Opium Farmer or keeper of a registered Opium Shop, who shall sell Tye-Chandoo or Opium-Dross mixed with Opium, shall, for the first offence, forfeit a penalty not exceeding One Hundred Dollars; for the second offence, shall forfeit a penalty not exceeding Two Hundred Dollars; and for every subsequent offence, shall forfeit a penalty not exceeding Four Hundred Dollars.

XXII. Every keeper of a Registered Opium Shop who shall sell, or have in his possession, any Opium or Chandoo other than such as shall have been bought from the Opium Farmer, shall, for every such offence, forfeit a penalty not exceeding One Hundred Dollars.

XXIII. Every person, other than the Spirit Farmer of the Station, who shall import into the said Settlements any Spirituous Liquor or Arrack, shall, before landing such Spirituous Liquor or Arrack, or any part thereof, deliver to the Spirit Farmer, a Bill in which shall be specified the name of the vessel, the quantity and kind of the Liquor and the place where the same is intended to be stored; and, if such Liquor is intended to be used or consumed in the House of the Importer, he shall, at the same time, pay or secure to the Spirit Farmer, the sum of Fifty Cents for every gallon of such Liquor, or if in bottles, the sum of Fifty Cents for every four quart bottles, and a proportionate rate for any quantity less than one gallon, or less than four quart bottles

so to be landed; and the Spirit Farmer shall thereupon in either case, if the application is made between the hours of six in the morning and six in the evening, deliver to such person a written Permit to land the same; and every person who shall land any such Liquor without having first delivered such Bill, and paid or tendered such sum when payable, and also every Spirit Farmer, who shall refuse to give such Permit without good cause shown, shall, for every such offence, forfeit a penalty not exceeding One Hundred Dollars, and all such Liquor, landed contrary to the provisions of this Section, and the vessels and conveyances in which the same is contained, shall be seized, and forfeited.

XXIV. Every person, other than the Spirit Farmer, or a person duly licensed as hereinafter mentioned, who shall sell within the Settlement of Prince of Wales' Island, Singapore and Malacca, otherwise than for exportation, any Spirituous Liquor or Arrack in a less quantity than One Hundred and Sixty Imperial Gallons, or, if sold in bottles, in a less quantity than fifty dozens of quart bottles, without first tendering and paying to the Spirit Farmer a sum of Fifty Cents for every Gallon, or for every four quart bottles of such Spirituous Liquor or Arrack, and a proportionate rate for any quantity less than one Gallon, or less than four quart bottles, shall forfeit a penalty not exceeding One Hundred Dollars and all such Spirituous Liquor or Arrack, and the Vessels in which the same is contained, shall be seized and forfeited.

XXV. Every person, other than the Spirit Farmer, who shall remove or cause to be removed any Spirituous Liquor or Arrack from one House, Shop, Godown, or other Building to another, or from the possession of one person to that of another, without having first obtained from the Spirit Farmer a written Permit, hereinafter described, to remove the same, shall forfeit a penalty not exceeding Fifty Dollars: and all such Spirituous Liquor or Arrack so removed, and the Vessels in which the same is contained, shall be seized and forfeited.

XXVI. The Spirit Farmer shall, on the application of any person, (if made between the hours of six in the morning and six in the evening,) grant a written Permit for the removal of any Spirituous Liquor or Arrack (provided the same be not sold contrary to the provisions of this Act,) which Permit shall describe the quantity and kind of Liquor required to be removed, and the

name of the person about to remove the same and the places from and to which the same is to be removed, and the time during which such Permit is in force: and every Spirit Farmer who shall, without good cause shown, refuse to grant such Permit, shall forfeit a penalty not exceeding One Hundred Dollars.

XXVII. The Spirit Farmer may enter the Warehouse, Godowns or Premises of any person wherein are kept any Spirituous Liquors or Arrack not contained in bottles, and take an account of the quantity of such Liquors, and notice any leakage of the same, and gauge, and otherwise examine the same, at any time between the hours of eight in the morning and five in the evening, upon obtaining a Warrant so to do, under the hand of any Justice of the Peace, which Warrant such Justice is authorized to grant whenever he shall see cause so to do.

XXVIII. The keepers of all Taverns duly registered under this Act may sell to the inmates, customers, or frequenters thereof Spirituous Liquors, so that the same be drunk within such Taverns; and every keeper of any such registered Tavern who shall sell any Spirituous Liquor otherwise than is herein provided, shall forfeit a penalty not exceeding Fifty Dollars.

XXIX. Every keeper of any Eating House or Spirit Shop registered under this Act, who shall serve, supply or sell to the customers, inmates, or frequenters thereof, any Spirituous Liquor or Arrack, other than such as shall have been bought by him from the Spirit Farmer, shall, for every such offence, forfeit a penalty not exceeding Fifty Dollars.

XXX. Every Spirit Farmer, and also every keeper of a registered Eating House or Spirit Shop, who shall knowingly sell or deliver to any European or Native Soldier any Spirituous Liquor or Arrack, without having an authority in writing so to do from the Commanding Officer of such Soldier, shall, for every such offence, forfeit a penalty not exceeding Fifty Dollars.

XXXI. Every Spirit Farmer, or other person, who shall sell or offer for sale any adulterated Spirits or Spirits distilled from Neepa, shall forfeit for every such offence, a penalty not exceeding Four Hundred Dollars.

XXXII. From the passing of this Act, whoever, being a Manufacturer of Sugar in the said Settlements, shall be desirous of having a Distillery at his Sugar Manufactory, for making, or

distilling, or rectifying, or compounding Spirits or Arrack, shall apply in writing to the Superintendent of Police of the Station or place within which such Sugar Manufactory is situated, for a License, and in such application shall be inserted the name of the applicant, the situation of his Manufactory and the number and size of the Stills he is desirous of keeping; and the Superintendent of Police shall grant such License, renewable every year under his hand and seal, to the applicant, on payment of a fee of Ten Dollars, and such License shall be registered in the Police Office of such Station or place.

XXXIII. No licensed Distiller shall be at liberty to sell to any person other than the Spirit Farmer, or to sell, send out of, or deliver from his Distillery, for exportation, any Spirits or Arrack in a less quantity than One Hundred and Sixty Imperial Gallons, or, if in bottles, in a less quantity than fifty dozens of quart bottles; and every licensed Distiller who shall sell, send out, or deliver from his Distillery, any Spirits or Arrack, (except as aforesaid,) shall, for every such offence, forfeit a penalty not exceeding One Hundred Dollars: and all such Spirituous Liquors or Arrack, and the vessels in which the same are contained, shall be seized and forfeited.

XXXIV. Every person, other than the Spirit Farmer or a licensed Distiller, who shall make, or distil, or rectify, or compound, any Spirits or Arrack, or shall keep or have in his possession any Still or other Utensil or Apparatus, for distilling, or making, or rectifying, or compounding, Spirits or Arrack, shall, for every such offence, forfeit a penalty not exceeding One Hundred Dollars: and all such Spirits or Arrack, and every such Still or other Utensil or Apparatus, shall be seize and forfeited, but nothing contained in this or any other Section shall be construed to extend to distillations for medical or scientific purposes.

XXXV. Every person, other than the Spirit Farmer, who shall make or distil Samsoo or Spirits distilled from Rice, in the said Settlements, or who shall keep or have in his possession any Still or other Utensil or Apparatus for distilling or making Samsoo, shall forfeit a penalty not exceeding One Hundred Dollars: and all such Samsoo, and every such Still or other Utensil or Apparatus, shall be seized and forfeited.

XXXVI. No person shall land Samsoo, or Spirits distilled

from Rice, in any part of the said Settlements, except for the purpose of selling the same to the Spirit Farmer; and every person who shall land any Samsoo in any part of the said Settlements, except for the purpose of selling the same to the Spirit Farmer, and also every person, who shall sell any Samsoo to any person other than the Spirit Farmer, shall forfeit a penalty not exceeding One Hundred Dollars: and all such Samsoo and the vessels in which the same is contained, shall be seized and forfeited.

XXXVII. All Spirituous Liquor or Arrack imported, landed, removed in, or exported from any part of the said Settlements on account of Her Majesty's Government, or the Government of the East India Company, is exempt from the operation of this Act.

XXXVIII. Every Owner, Renter, or Occupier of any land which produces Toddy or Bang, and also every other person, other than the Toddy Farmer and the keepers of the registered Toddy Shops, who shall sell any Toddy or Bang within the said Settlements to any person other than to the Toddy Farmer, shall forfeit a penalty not exceeding One Hundred Dollars, and all such Toddy or Bang shall be seized and forfeited; but this enactment shall not be deemed to forbid Bakers from using in their Bread Toddy, the produce of their own Estate or Plantation.

XXXIX. Every person, other than the Owners, Renters, or Occupiers of lands which produce Toddy or Bang, who shall have in his possession any Toddy or Bang, unless the same shall be duly proved to have been bought from the Toddy Farmer, or from the keeper of a registered Toddy Shop hereinafter mentioned, shall forfeit a penalty not exceeding Fifty Dollars: and all such Toddy or Bang, and the vessels in which the same is contained shall be seized and forfeited.

XL. Every keeper of a registered Toddy Shop, who shall sell to any person, or shall have in his possession any Toddy or Bang, unless the same shall be duly proved to have been bought from the Toddy Farmer, shall forfeit a penalty not exceeding Fifty Dollars: and all such Toddy or Bang, and the vessels in which the same is contained, shall be seized and forfeited.

XLI. Every Toddy Farmer and keeper of a registered Toddy Shop who shall knowingly sell or deliver any Toddy or Bang to any European or Native Soldier, without having an authority in writing from the Commanding Officer of such Soldier, shall forfeit a penalty not exceeding Fifty Dollars.

XLII. All Fees received for registering Licenses to keep Opium Shops under this Act, shall be paid to the Opium Farmer for the time being: and all Fees received for registering Licenses to keep Spirit Shops and Distilleries under this Act, shall be paid to the Spirit Farmer for the time being; and all Fees received for registering Licenses to keep Toddy Shops for the sale of Toddy and Bang under this Act, shall be paid to the Toddy Farmer for the time being; and all other Fines, Penalties or forfeitures whatsoever, received under this Act, shall, after the adjudication at the discretion of the Magistrate of a portion of such fines and penalties to the informer, be paid into the Municipal Fund, established under Act No. IX. of 1848, or that may be established by any future Act, of the station at which such Fines, Penalties or Forfeitures shall be imposed, to be applied to the general purposes of the said Act.

XLIII. Any Justice of the Peace within the said Settlement may, by his Warrant, in the form of Schedule B, to this Act annexed, or to the like effect, directed to any Peace Officer or Officers within the said Settlement, or to any Revenue Officer or Officers appointed in manner hereinafter mentioned, empower him or them by day or by night (but if between the hours of six o'clock at night and six in the following morning, then such Warrant to be addressed to and executed by, or in the presence of a Peace Officer) to enter and search any Dwelling-house, Shop, or other Building, in any case in which there shall appear to such Justice of the Peace, upon the oath of any party, good and sufficient cause to believe that in any such Dwelling-house, Shop, or other Building is concealed or deposited any article subject to forfeiture under this Act, and to seize and take possession of any such article found to be concealed or deposited therein: and to arrest and take any person, or persons, being in such Dwelling-house, Shop or Building, in whose possession, custody or control any such article may be found, or whom the said Officer, or Officers may have good and sufficient reason to suspect had concealed or deposited therein any such article, and any Officer to whom such Warrant shall be directed may, in case of resistance, break open any door of such Dwelling-house, Shop or other Building, and remove by force any other obstruction to such entry, search, seizure and removal as aforesaid.

XLIV. If any persons shall be found committing any act in

breach of this Act, or if any Peace or Revenue Officer shall have probable cause to believe that any person has concealed upon his person any article subject to forfeiture under this Act, such Peace or Revenue Officer may immediately arrest such person without a Warrant, and shall thereupon immediately take such person before some neighbouring Justice of the Peace, who shall determine if there be reasonable grounds of suspicion, and such Justice may direct such person to be immediately searched: and every person who shall obstruct any such Officer in making any such arrest as aforesaid, and also every Officer who shall not immediately take any person so arrested before a Justice of the Peace, shall forfeit a penalty not exceeding Fifty Dollars.

XLV. Every Peace or Revenue Officer who shall maliciously and without reasonable grounds arrest or detain any person on the plea that such person hath infringed any of the provisions of this Act, shall forfeit a penalty not exceeding Fifty Dollars.

XLVI. No Revenue Officer shall be competent to act under the provisions of this Act, unless he shall be appointed specially so to do in writing by the Governor or other Chief Civil Authority of the Station in which such Revenue Officer is required to act, which authority shall be duly registered at the Police Office of such Station and shall be liable to be annulled at the pleasure of the said Governor or other Chief Civil Authority.

XLVII. Any Farmer named in this Act who shall either by himself, or by the means of any other person, take from any person who may have committed, or be suspected of having committed a breach of any of the provisions of this Act, any sum of money, or any goods or chattels whatsoever, as a compromise, reward or payment for not prosecuting such person for such offence under this Act, shall forfeit a penalty not exceeding Two Hundred Dollars, a moiety of which may, at the discretion of the Magistrate, be adjudged to the informer.

XLVIII. All penalties under this Act may be imposed on conviction of the offence by confession of the offender, or by the oath of one or more witnesses before two Justices of the Peace, and in case of nonpayment of any penalty imposed or forfeited under this Act, the convicting Justices may issue their Warrant of Distress in the form of Schedule C, to this Act annexed, or to the like effect, under their hands and seals, directed to any Peace

Officer or Officers to levy the amount of such Penalty by seizure and sale of any Goods of the offender which may be found within the jurisdiction of such Justices; and if no such property shall be found within such jurisdiction, then the aforesaid Justices, by Warrant under their hands and seals, in the form of Schedule D, to this Act annexed, or to the like effect, may commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months, where a pecuniary penalty of Twenty-five Dollars can be imposed, and in the same proportion for any greater penalty which can be imposed. Provided always that in case it shall appear to such Justices by the confession of the offender, or in any other manner, that he has no goods whereon to levy such distress, then and in every such case it shall be lawful for such Justices, if they shall deem it fit, instead of issuing such Warrant of Distress, by Warrant under their hands and seals in the form of Schedule E, to this Act annexed, or to the like effect, to commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months, where a pecuniary penalty of Twenty-five Dollars can be imposed, and in the same proportion for any greater penalty which can be imposed. Provided always that in no case shall the term of imprisonment exceed two years.

XLIX. All convictions under this Act may be in the form of Schedule F, to this Act annexed, or to the like effect, and no conviction shall be quashed or set aside for want of form, or be removed by Certiorari or otherwise into Her Majesty's Superior Court of Record, and no conviction shall be quashed or set aside except for error of law apparent upon the face of such conviction, and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a valid conviction as aforesaid to sustain the same.

L. In all Sections of this Act in which the Stations of Prince of Wales' Island, Singapore or Malacca, or any or either of them are inserted, all places attached to, or dependant on the said Stations respectively shall be taken to be included.

LI. This Act shall commence and take effect from and after the 1st day of May 1852.

SCHEDULE A.

Form of Seqrch Warrant under Section XX.

Prince of Wales' Island. To the Opium Farmer or any Revenue Officer duly appointed under the Act XIV. of 1851, or any Peace Officer.

Whereas it appears to me *A. B.*, one of Her Majesty's Justices of the Peace for the said *Settlement*, by the information on Oath of *C. D.* of that he hath good cause to believe and doth believe that there is on board the Vessel *Inconstant* anchored, or being within the limits of the jurisdiction of this *Settlement*, *Contraband Opium*, *Chandoo or Opium*. These are, therefore, in the name of our said Lady the Queen, to authorize and require you, with necessary and proper Assistants, to go on board and enter in the day time into the said Vessel, and there diligently to search for the said *Contraband Opium*, *Chandoo or raw Opium*, and if the same shall be found upon such search, that you bring the said *Contraband Opium*, *Chandoo or raw Opium*, and also the body or bodies of the offender, or offenders in whose possession, custody or control the said *Contraband Opium*, *Chandoo or raw Opium* shall be found, before me or some other Justice of our said Lady the Queen, assigned to keep the peace in this *Settlement*, to be disposed of and dealt with according to law. Given under my hand and seal, at *Prince of Wales' Island*, the 1*st* day of *June* in the year 1852.

(Sd.) *A. B.*,
Justice of the Peace.

(The words, letters and figures in Italics, in this Schedule, to be filled up according as the case may be, and the blank space therein with the description of the informant.)

SCHEDULE B.

Form of Search Warrant under Section XLIII.

Prince of Wales' Island. To the Peace Officer or Officers within this Settlement, or to the Revenue Officer or Officers appointed according to the provisions of XLVI. Section of Act XIV. of 1851.

Whereas it appears to me *A. B.* one of Her Majesty's Justices of the Peace for the said *Settlement* by the information on Oath

of *C. D.* of that he has good cause to believe and doth believe that Articles, subject to forfeiture under the provisions of Act XIV. of 1851 are concealed or deposited in the *Dwelling House, Shop or other Building* of *E. F. of* *in* the said *Settlement.* These are, therefore, in the name of our said Lady the Queen, to authorize and require you, with necessary and proper assistants, to enter in the day time into the said *Dwelling House, Shop or other Building* of the said *E. F.*, and there diligently to search for the said articles, and also to authorize and require you, if a Peace Officer, and if not, in the presence of a Peace Officer to enter in the night time (that is to say, at any time between the hours of 6 o'Clock in the evening and 6 in the following morning) into the said *Dwelling House, Shop or other Building* of the said *E. F.*, and there diligently to search for the said articles, and if the same shall be found upon such search, that you seize and take possession of the said articles so found, and also the body or bodies of any person or persons being in the said *Dwelling House, Shop or other Building,* in whose possession, custody or control any such articles may be found, or whom you may have good and sufficient reason to suspect had concealed or deposited therein any such article, before me the said *A. B.* or some other of the Justices of our said Lady the Queen assigned to keep the peace in the Settlement aforesaid, to be disposed of and dealt with according to law. Given under my hand and seal, at *Prince of Wales' Island* the 1*st* day of *June* in the year 1852.

(Sd.) *A. B.*,
Justice of the Peace.

(The words, letters and figures in Italics, in this Schedule, to be filled up according as the case may be, and the first blank space therein with the description of the informant and the second blank space therein with the description of the party whose house, shop or building is to be searched).

SCHEDULE C.

Form of Distress Warrant.

Prince of Wales' Island. To the Peace Officers, or to any Peace Officer of the said *Settlement.*

Whereas *A. B.* of has been on the 1*st* day of *June*

1852, duly convicted before us, *C. D.* and *E. F.* two of her Majesty's Justices of the Peace for the said *Settlement* of the offence of against the form of the Act XIV. of 1851 in that case made and provided, and was thereupon adjudged by us that he the said *A. B.* had forfeited the sum of Dollars for the offence aforesaid, and whereas the said *A. B.* being required to pay the said sum hath not paid the same, but therein has made default. These are to command you to distrain the Goods and Chattles of the said *A. B.* which may be found within this *Settlement*, to the amount of the said sum and such further sum as may be sufficient to defray the charges of making such distress, and if within five days next after such distress the said sum, together with the reasonable charges for taking and keeping the said distress, shall not be paid, to sell the said Goods and Chattels, and having paid out of the money arising by such sale the said sum of Dollars to us to be applied according to the provisions of the said Act XIV. of 1851, and having deducted the necessary charges of taking, keeping and selling the said distress, to return the overplus, if any, on demand to the person whom you shall find in possession of the said Goods and Chattels, and if no such distress can be made that then you Certify the same unto us to the end that such further proceedings may be had thereon as to the law doth appertain. Given under our hands and seals, this *2nd* day of *June* 1852.

C. D.,
E. F.,
Justices of the Peace.

(The words, letters and figures in Italics, in this Schedule, to be filled up according as the case may be, and the first blank space therein with the description of the party convicted, the second blank space therein with a Statement of the offence committed, and the third and fourth blank spaces therein with the amount of Dollars forfeited.)

SCHEDULE D.

Form of Commitment.

Prince of Wales' Island.

To the Peace Officers, or any Peace Officer and the Keeper of the Prison of the said *Settlement*.

Whereas *A. B.* of was, on the 1*st* day of *June* 1852,

duly convicted, before us *C. D.*, and *E. F.*, two of the Justices of the Peace for the said *Settlement* of the offence of
against the form of Act XIV. of 1851 in that case made and provided, and was thereupon adjudged by us that he the said *A. B.* had forfeited the sum of Dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard labour*. And whereas we have issued a Distress Warrant to levy the amount of the said sum by seizure and sale of the Goods and Chattles of the said *A. B.* within our jurisdiction, and no Goods and Chattels of the said *A. B.* have been found within such jurisdiction, and the said *A. B.* had not yet paid the said sum, but therein had made default. These are, therefore, to command you, the said Peace Officers or Peace Officer to take the said *A. B.* and him safely to convey to the prison of the said *Settlement*, and there to deliver him to the said Keeper thereof together with this precept. And we do hereby command you, the said Keeper of the said Prison, to receive the said *A. B.* into the said Prison, there to imprison him *with hard labour* for the space of Given under our hands and seals, at *Prince of Wales' Island, this* 3*rd* day of *June* 1852.

C. D.,
E. F.,
Justices of the Peace.

(The words, letters and figures in Italics, in this Schedule, are to be filled in according as the case may be, and the first blank space therein with the description of the party committed, the second blank space therein with a Statement of the offence, and the third blank space therein with the amount of Dollars forfeited, and the fourth blank space therein with the period of imprisonment.)

SCHEDULE E.

Form of Commitment when it appears that the offender has no Goods whereon to levy a distress.

Prince of Wales' Island. To the Peace Officers, or any Peace Officer, and the Keeper of the Prison of the said *Settlement*.

Whereas *A. B.* of was on the 1*st* day of *June* 1852, duly convicted before us *C. D.* and *E. F.* two of Her Ma-

jesty's Justices of the Peace for the said *Settlement* of the offence of against the form of Act XIV. of 1851 in that case made and provided, and was thereupon adjudged by us that he the said *A. B.* had forfeited the sum of Dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard lobour*, and whereas the said *A. B.* hath not paid the said sum, but therein hath made default, and it appears to us that the said *A. B.* has no Goods or Chattels whereon to levy a distress. These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A. B.* and him safely to convey to the Prison of the said *Settlement*, and there to deliver him to the said Keeper thereof together with this precept And we do hereby command you, the said Keeper of the said Prison, to receive the said *A. B.* into the said Prison, there to imprison him *with hard labour* for the space of

Given under our hands and seals, at *Prince of Wales' Island* on the said 1*st* day of *June* 1852.

C. D.,
E. F.,
Justices of the Peace.

(The words, letters and figures in Italics, in this Schedule, are to be filled in according as the case may be, and the first blank space therein with the description of the party committed, the second blank space therein with a Statement of the offence committed, the third blank space therein with the amount of Dollars forfeited and the fourth and fifth blank spaces therein with the period of imprisonment.)

SCHEDULE F.

Form of Conviction.

Prince of Wales' Island, to wit.

Be it remembered that, on the 1*st* day of *June* in the year 1852, *A. B.* is found guilty before us *C. D.* and *E. F.*, two of the Justices of the Peace for the said *Settlement*, of the offence of against the form of the Act XIV. of 1851 in that case made and provided, and we do hereby convict him of the offence aforesaid, and do adjudge that he the said *A. B.* hath forfeited the sum of

Dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for

with hard labour. Given under our hands and seals, at *Prince of Wales' Island,* the day and year first mentioned.

C. D.,
E. F.,
Justices of the Peace.

(The words, letters and figures in Italics, in this Schedule, to be filled in according as the case may be, and the first blank space therein with a Statement of the offence, the second blank space therein with the amount of Dollars forfeited, and the third blank space therein with the period of imprisonment.)

BOMBAY.—COTTON.

ACT No. XV. OF 1851.

[*Passed on the 21st November,* 1851.

1, 2. *Persons in the I. of Bombay or Colaba fraudulently mixing Cotton of good and bad quality, or* (2) *deteriorating Cotton by exposure, or by means of dirt, shall be guilty of misdemeanour.*

3, 4. *Persons in I. of B. or C. selling under false sample such Cotton, or* (4) *knowingly having in his possession such Cotton with intent to sell, to be guilty of misdemeanour.*

5. *Misdemeanour under this Act to be tried by Petty Sessions.*

6, 7. *Cottons specified in Ss.* 1 *and* 2 *to be liable to Confiscation; and* (7) *Petty Sessions, &c. on information may issue search warrant for seizure of same and may order confiscation.*

8. *Penalties to be paid into General Treasury.*

9. *Whole or part of penalty may be awarded to informer.*

10. *Nothing in this Act to affect the civil rights of defrauded party.*

An Act for the better suppression of frauds in respect of Cotton in Bombay.

For the better suppression of fraudulent practices in the Cotton Trade in Bombay, It is enacted as follows:

I. Any person who, in the Islands of Bombay or Colaba, shall fraudulently mix Cotton of a good and bad description or quality in one bale, usually termed false packing, shall be deemed guilty of a misdemeanour.

II. Any person who, in the Islands of Bombay or Colaba, shall

fraudulently deteriorate Cotton by exposing it by night to heavy dews, or by putting with it uncleaned Cotton, commonly called Kuppas, or by means of dirt, stones, earth, water, or any other substance, or liquid, or who shall in any other way fraudulently deteriorate it with the view of making it heavier, and packing it in that state, shall be deemed guilty of a misdemeanour.

III. Any person who, in the Islands of Bombay or Colaba, shall fraudulently sell or offer for sale under false sample, or otherwise, any Cotton mixed, or adulterated, as in the first and second Sections of this Act mentioned, shall be deemed guilty of a misdemeanour.

IV. Any person who, in the Islands of Bombay or Colaba shall knowingly and wilfully have in his possession any such mixed or adulterated Cotton as aforesaid, with a view to any fraudulent sale or disposition thereof, shall be deemed guilty of a misdemeanour.

V. Any person committing a misdemeanour against this Act shall be tried summarily for the same before the Court of Petty Sessions at Bombay, and on conviction shall be liable to a fine not exceeding Rupees One Thousand, or imprisonment, with or without hard labour, not exceeding twelve months, and at the discretion of such Court to both fine and imprisonmont: Provided always that it shall be lawful for the Chairman of the said Court to commit, or hold to bail, any person charged with any misdemeanour under this Act to take his trial in the Supreme Court.

VI. All Cotton in the Islands of Bombay or Colaba, which shall be fraudulently mixed, as mentioned in the first Section of this Act, or which shall be fraudulently deteriorated as mentioned in the second Section of this Act, shall be liable to confiscation.

VII. The said Court of Petty Sessions, upon credible information on oath of any Cotton liable to confiscation under this Act being in Bombay, or Colaba, may order the seizure thereof and the Chairman of such Court may issue a warrant for searching for, and seizing the same, and upon the same being proved to the satisfaction of the said Court to be liable to confiscation, may order the confiscation thereof, whereupon the same shall be confiscated, and the said Court of Petty Sessions shall cause an intimation of every such confiscation to be forthwith given to the Collector of Customs at Bombay, who shall forthwith cause a valuation of the

confiscated Cotton to be made, and furnish the same to the said Court of Petty Sessions, who shall thereupon make over the confiscated Cotton, with the valuation thereof to the Bombay Government, and the said Government shall keep the said confiscated Cotton, and shall from time to time export the same to Europe, to be there disposed of as adulterated or deteriorated Cotton.

VIII. All fines, levied and recovered under this Act, shall be paid into the General Treasury at Bombay.

IX. The said Court of Petty Sessions as to any fine paid to such Court, or Cotton confiscated by its order under this Act and the Supreme Court as to any fine on conviction in such Court respectively, may award the whole or any part of the fines recovered, and any portion of the valuation by the said Collector of Customs of confiscated Cotton, not exceeding two thirds of the amount of such valuation, to be paid to the informer or informers, whose information shall have led to the conviction of the offender, or confiscation of the Cotton respectively, and may grant such informer or informers an order on the General Treasury at Bombay for the amount so awarded.

X. Nothing in this Act shall affect the Civil rights of any parties defrauded by any offender against this Act, but they may sue for the same as if this Act had not been passed.

CRIMINAL LAW.

Repealed by XVII 07/62

ACT No. XVI. OF 1851.

[*Passed on the 26th December*, 1851.

Receivers of Stolen Property may be tried in place where Property is found in their possession, or where they received the Property.

An Act for the trial of Receivers of Stolen Property.

For the trial of Receivers of Stolen Property where the Principal is tried or where the Property is found in their possession, or where the receiving takes place, It is enacted as follows:—

I. Every person who receives any Chattel, Money, Valuable Security, or other Property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanour only, may be dealt with, indicted, tried, and punished in any place in which he

shall have, or shall have had, any such Property in his possession, or in any place in which the party guilty of the principal felony or misdemeanor may by law be tried, or in the place where he actually received such Property.

BOMBAY.—CUSTOMS ACT.

ACT No. I. OF 1852.

[*Passed on the 2nd January*, 1852.

1. *Repeals R* 6, 1799; *Ss.* 1, 2, 3, *R.* 9. 1800; *S.* 7, *cl.* 2, *R.* 1, 1805; *Ss.* 14, 17, 20, 25, *R.* 2, 1810; *R.* 6, 1814; *R.* 20, 1827, *Chaps.* 3, 5, 7; *R.* 1. 1833; *A.* 1, 1838; *A* 9, 1845, *as respects Bombay; A.* 2, 1846; *and all other Acts and Regulations described respecting levy of customs, &c.*

2. *Saves anchorage and harbour dues and special duties of specified kind from operation of this Act.*

3. *Empowers G. in C. to appoint Commissioners of Customs who are to hold office during pleasure, &c.*

4. *Empowers G in C. to appoint Collectors of Customs, &c.*

5. *Empowers G. in C. to appoint subordinate officers of Customs, &c.*

6. *Empowers G. in C. to delegate the power given to him in last section.*

7, 8. *Offence of obstructing officer in exercise of his duty or* (8) *offering bribes, &c. subject to fine or imprisonment.*

9. *Supreme Court to have no jurisdiction over any thing done under this Act; and thing wrongfully done but with reasonable and probable cause not to be compensated for beyond two annas.*

10, 11. *Officer under this Act guilty of wilful breach of duty, &c. or* (11) *of practising any fraud, &c how punishable.*

12, 13. *Confiscation of goods and infliction of penalties may be adjudged by Collectors, &c. and* (13) *the adjudicating officer may order restoration of goods on such terms as he thinks proper, &c.*

14. *Empowers Collectors to decide on seizures and confiscations and mitigations of the law, as he pleases, and to order rewards to officers.*

15. *Empowers Magistrates, &c. of the place where the penalty is incurred, to adjudicate.*

16. *Empowers Collector to refuse Port Clearance if master or owner shall be liable to fine for breach of customs law.*

17. *Restricts agency relating to the entrance or clearance of Ships, to persons licensed by Collector, except clerk or servants of known accredited agents or firms, &c.*

18. *Customs duties on imports by sea from ports not subject to the E. I. Co., or from Aden, or the Straits of Malacca, Tenasserim or Arracan to be as in Schedule A.*

19. *Customs duties on exports of Indian manufacture or produce to Arracan*

Tenasserim provinces, Aden, Straits of Malacca or ports beyond the territories of E. I. Co. to be as in Schedule B.

20. *Regulates duty on spirits exported from any Indian port to a Bombay port.*

21. *Empowers G. in C. to direct the anchorage tolls specified in Schedule C. to be levied on such kinds of crafts as shall be specified.*

22. *Empowers G. in C. to give special exemption from legal duties, and Collector to give pass for baggage.*

23. *Entitles the exporters of salt on which duty has been paid to certificate of that fact.*

24, 25, 26. *Empowers G. in C. to fix a value on ad volorem dutiable articles and (25) if articles have lost value by damage, Collector may reduce value and (26) articles not officially valued to be dutiable at market value.*

27. *Goods not to be passed through Custom House except on written application, in form to be prescribed.*

28. *Goods not officially valued, how value of, to be stated; and what may be done if undervalued.*

29. *Collector may take goods at market value, if declared value is below the fair value.*

30. *Goods passed for shipment after port clearance to be liable to double duty; or if free to 5 per cent. on value, and if entitled to drawback, drawback to be forfeited.*

31. *Provides for care of Ships putting back from stress of weather, &c.*

32. *Duty on goods relanded before port clearance, to be returned, &c.*

33. *Goods manifested for re-export on same Ship in which they were imported not subject to export duty; Goods transshipped to be subject to what duty.*

34. *Duties levied by error not to be returned unless cleared in two years.*

35. *What drawback may be allowed and on what re-exports.*

36. *Enacts a penalty on counterfeiting or falsifying, &c. any invoice, &c. for purpose of clearing, &c.*

37. *In what cases Collector may grant duplicate of certificate, manifest, &c.*

38. *Masters of Ships on arrival and on being required to give such information as may be required, &c.*

39. *Master on arrival of Ship to report quantity of gunpowder on board on pain of fine.*

40. *Master on arrival in any port to deliver certificate of Ship, registry or other pass or sea letter, &c. and a manifest of cargo, &c.*

41. *If manifest be not true, master may be fined, &c.*

42. *Manifest how to be delivered if Ships stop short of usual place for delivery of it.*

43. *Vessel not entitled to inward entry or break bulk, till orders of Collector, &c.*

44. *Vessel not entitled to entry outwards until applied for in writing and orders of Collector, and what such application shall contain.*

45. *Master to give a Bond, if Ship is bound for any other port of E. I. Co.*

46. *No goods to leave Ship until entry of Ship and order for discharge of cargo.*

47. *Goods landed or put on board contrary to rules, liable to confiscation.*

48. *If goods manifested are not on board or short of manifested quantity, penal duty and fines to be paid, &c.*

49. *Shipping or unshipping goods, &c. between sunset and sunrise or on irregular days, to be punishable by fine.*

50. *Boat note to be sent on shore with cargo: what it shall contain.*

51. 20 *days exclusive of Sundays, &c. from time officer goes on board shall be allowed for discharge of vessels not exceeding* 600 *tons,* 30 *for larger vessels.*

52. *No vessel to depart without port clearance, &c. and no port clearance to be granted till production of specified documents, viz.* (1) *certificate of registry,* (2) *Senior-Magistrate's certificate,* (3) *Indian Naval Store-keeper's,* (4) *Marine Paymaster's,* (5) *Registrar's of Shipping,* (6) *List of crew, &c.*

53, 54. *On applying for port clearance Master to deliver manifest of outward cargo, &c.* (54) *which manifest may be amended if goods are taken on board after application, &c.*

55. *Ship departing without port clearance Master or owner shall be fined.*

56. *No transshipment of goods to be made without special order in writing, &c.*

57, 58. *G. in C. may declare what shall be places for landing and shipment of merchandize, &c. and* (58) *in every port there shall be one or more of such places, and goods landed elsewhere shall be liable to confiscation.*

59. *G. in C. may make anchorage rules for coasting and country craft, &c. for delivery of manifests, &c. landing and Shipping goods: and persons contravening such rules to be fined not exceeding* 100 *rupees.*

60. *Goods brought to Custom House not corresponding with description may be confiscated.*

61. *Exported goods found in the harbour or imported goods found on wharf, &c. liable to confiscation, unless it is proved that they have been passed.*

62. *G. in C. may fix rent for warehouse-room.*

63. *Importer and exporter to pay expense incidental to compliance with custom house rules.*

64. *Collector may assess duties on board ship before landing.*

65. *G. in C. may make rules respecting passenger's baggage and mails, &c.*

66. *Goods attempted to be removed after they have been landed without a pass shall be confiscated unless the attempt was made without sanction of the owner.*

67. *Goods landed and not cleared in* 3 *months may be sold for duties, &c.*

68, 69, 70. *G. in C. may maintain special establishment of boats for landing and shipping cargo, &c. and* (69) *when such establishment is appointed, Collector may send officers thereof on board Ship, &c. and* (70) *such officer shall be entitled to suitable accommodation, &c.*

71. *Collector may grant extension of time for discharge of import Cargo.*

72. *Twenty days shall be allowed for taking in outward cargo: or in specified case* 30 *days from time of arrival of Ship in port.*

73. *If in the interval between discharges of inward cargo, and entry outward, goods are shipped, master shall be fined.*

74. Collector may issue search warrant for search of any vessel.

75. Officer wishing to search suspected persons may be required to take them before Collector or J. P. Females to be searched only by females and privately, and officer requiring search without reasonable cause shall be liable to fine, &c.

76. Empowers officer under search warrant to take sufficient force and enter houses between sunrise and sunset and break open doors, &c.

77. Cargo boat not to make fast to or lie along side vessel with custom house officer on board, unless it has a permit or the goods are carried with a pass.

78. Fines to be recovered before Magistrates and enforced under Act 2, 1839.

Schedule A. Import duties. Schedule B. Export duties. Schedule C. Anchorage tolls on country craft.

An Act for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay.

Whereas it is expedient to consolidate into one Act the laws now in force, relating to the customs under the Presidency of Bombay, and also to amend the rules for the collection and management of the same, It is enacted as follows:

I. The following Regulations and parts of Regulations of the Bombay Code, and the following Acts and parts of Acts of the Government of India, are repealed, that is to say, Sections I. II. and III., Regulation VI. of 1799; Clause II. Section VII. Regulation IX. of 1800; Sections XIV. XVII. XX. XXI. and XXV. Regulation I. of 1805; Section IV. Regulation II. of 1810; Regulation VI. of 1814; Chapters III. V. and VII., Regulation XX. of 1827; Regulation I. of 1833; Act I. of 1838, except in so far as it repeals any Regulation of the Bombay Code, or Act of the Government of India; Act IX. of 1845, so far as it relates to the Bombay Presidency, except so far as it repeals any other Act; Act II. of 1846; and all other Acts and parts of Acts, and all other Regulations and parts of Regulations of the Bombay Code, so far as such Acts or Regulations prescribe the levy within the Bombay Presidency of any customs duties, as well on transit by land as on import and export by sea, or which relate in any way to such duties, or which require the payment of any fee leviable by Customs Authorities on account of any vessel which may enter any port in the territories subject to the Presidency of Bombay.

II. Nothing hereinbefore contained shall be construed to prevent the levy of any anchorage or harbour dues now leviable at the port of Bombay, or the levy of any special duties on

opium, tobacco, gunja, spirits or salt which are, or may be established by any Law, or the levy of any town duty, or of any Municipal Tax, or of any toll on any bridge, road, canal or causeway, or for repair and maintenance of light-houses, or the levy of any rent or fee leviable under Act XXV. of 1836, on the warehousing of goods.

III. The Governor of Bombay in Council may appoint one or more persons to be Commissioners of Customs for the collection and management of the customs throughout the whole of the Presidency of Bombay with such salary or salaries as the said Governor in Council may deem reasonable; the persons so appointed shall hold their offices during the pleasure of the said Governor in Council, and shall, in all matters relating to the execution of their duties, be subject to the authority, direction and control of, and obey such orders and instructions as shall, from time to time, be issued to them by, the said Governor in Council.

IV. The Governor of Bombay in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the customs in the Bombay Presidency under this Act, as Collectors of Customs, or under such other designation as the said Governor in Council shall determine; the persons so appointed shall be subject to the authority and control of the Commissioner or Commissioners (if any such officer shall have been appointed) in such manner and to such extent as the said Governor in Council, from time to time, may direct.

V. The Governor of Bombay in Council may appoint all other proper persons to execute the duties of the several subordinate officers necessary to the due management and collection of the customs, and may require from such persons such securities for their good conduct therein as the said Governor in Council may deem necessary; and may, from time to time, transfer any part of the duties and powers of any officer of customs under this Act to any other officer in such cases and under such restrictions as the said Governor in Council may deem fit; and every officer of customs appointed or employed on any duty relating to the said customs shall hold his office during the pleasure of the Governor of Bombay in Council:

all persons holding any office or employment in the said customs, at the time of the passing of this Act, shall continue to be so employed therein under this Act until duly removed therefrom.

VI. The Governor of Bombay in Council may delegate the whole or any portion of the powers with which he is invested by the preceding section to any Commissioner or Collector or other officer of customs regularly appointed under the provisions of this Act, and all subordinate officers of customs, who may be appointed by such Commissioner or Collector, or other officer of customs, by virtue of such delegated power shall be liable to be dismissed, suspended or fined to an extent not exceeding two months' pay by the authority by which they were respectively appointed, subject to the control of Government, or of superior authority in the customs department.

VII. Whoever intentionally obstructs any officer, in the exercise of any powers given by this Act to such officer, shall be liable to imprisonment for any term not exceeding six months, or a fine not exceeding one thousand rupees, or both.

VIII. Any person, who shall offer a bribe to any custom house officer in order to induce such officer to act in a manner inconsistent with his duty, shall be liable for every such offence to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months, or both.

IX. No action shall lie in the Supreme Court for any act or thing done under this Act; but every action for any wrong or trespass, if committed within the local limits of the Island of Bombay, shall be tried and determined before the Revenue Judge of Bombay, and if committed in any part of the Presidency of Bombay without those limits, then before the proper Zillah Judge within whose jurisdiction the same shall have been committed; and such Revenue Judge of Bombay, or Zillah Judge respectively, shall award such damages to the party aggrieved for the injury done as shall be just and equitable: Provided, that if it shall appear that there was reasonable and probable cause for the act complained of, the plaintiff shall not be entitled, beyond the restoration of any article unlawfully seized, or the value thereof, to more than two annas damages without costs.

X. Whoever, being an officer appointed under the authority

of this Act, shall be guilty of a wilful breach of the rules prescribed in this Act, or any other rules that shall be passed by the Governor of Bombay in Council under the authority of it, or shall accept, or obtain or attempt to obtain from any person any property, gratuity or benefit as a consideration for doing or forbearing to do any official act, shall be liable to imprisonment for any term not exceeding two years, or to fine, or both.

XI. Whoever, being an officer appointed under the authority of this Act, practises or attempts to practise any fraud for the purpose of injuring the customs revenue, or abets or connives at any such fraud, or at any attempt to practise any such fraud, shall be liable to imprisonment for any term not exceeding two years, or to fine, or both.

XII. In all cases in which under this Act, goods are liable to confiscation, and in all cases in which under this Act, any person in charge of, or owning a vessel, or landing or shipping goods, or passing them through the custom house, is liable to a penalty, a Commissioner or Collector of Customs may adjudicate such confiscation or such penalty; or the same may be adjudged by a Deputy or by an Assistant Collector of Customs being a Justice of the Peace: Provided, that the power to adjudicate confiscation shall not extend as regards a Deputy Collector to goods beyond the value of rupees one thousand, nor as regards an Assistant Collector to goods beyond the value of rupees one hundred, nor shall any Deputy Collector impose any fine beyond the amount of rupees fifty, nor any Assistant Collector beyond the amount of rupees ten; and all cases adjudicated by a Deputy or Assistant Collector shall be liable to revision by a Collector of Customs on appeal.

XIII. In case any goods, ship, vessel, boat, cart, vehicle or other article shall be seized as forfeited, or detained as undervalued under this Act, the adjudicating officer may order the same to be restored in such manner and on such terms and conditions as he thinks fit to direct; and if the proprietor of the same accepts such terms and conditions, he shall not have or maintain any action for recompense or damage on account of such seizure or detention, and the adjudicating officer shall not proceed to condemnation.

XIV. Any Collector of Customs or other officer, who is

authorized to adjudicate customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, may adjudge damages to be paid to the proprietor by the customs officer who made such a vexatious seizure, beside ordering the immediate release of the goods; and if the proprietor accepts such damages no action shall thereafter lie against the officer of customs, in any court of justice, on account of such seizure; and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, he may mitigate the same by levying on the goods so seized as aforesaid, any portion of the market value of such goods not less than one-tenth of such value; and if the said officer adjudges confiscation, or any penalty in mitigation of confiscation, he may order that from the sale of the goods, or from the proceeds of any penalty inflicted in mitigation of confiscation, a proportion not exceeding, in all cases of seizure, except seizures of salt or tobacco, one half of the sum remaining after payment of all Government demands shall be distributed in rewards amongst such officers as he deems entitled thereto, and in such proportion as he directs to each respectively: but in awarding rewards for the seizure of confiscated salt or tobacco, he may award one-half of the proceeds of sale, without making any deduction on account of Government demands.

XV. All penalties under this Act, except those specified in any judicial award of the Collector or other ajudicating officer, as provided for in Section XIII. of this Act, shall be adjudged and determined by the Officiating Magistrate of the place where the offence shall have been committed; and any Collector being a Justice of the Peace, or Deputy or Assistant Collector authorized in such behalf by his superior and being a Justice of Peace, may take informations and depositions on oath or solemn affirmation or declaration touching any matters involving a breach of any of the provisions of this Act, and if taken in the presence of the party or parties charged with such breach, the same shall be received in evidence by such magistrate in the like manner and to the same extent as if taken before him, and shall be deemed sufficient for him to adjudicate thereon: but nothing herein contained shall prevent such magistrate from

taking any information or deposition afresh, or from taking other and further depositions in the matter, if he think fit.

XVI. If any person in charge of, or owning a vessel shall have become liable to any fine on account of any act or omission relating to the Customs, the Collector of Customs, subject to the orders of the Governor of Bombay in Council, may refuse port clearance to such vessel until the fine is discharged; and in like manner if any person passing goods, through the custom house, shall have become liable to any fine, the Collector of Customs may detain such goods until the fine is discharged.

XVII. No person shall act as an agent for transacting business in the custom house in the port of Bombay which shall relate to the entrance or clearance of any ship, goods, or baggage, unless authorized so to do by licence of the Collector of Customs, who may require a bond to be given by every person to whom such licence shall be granted, with sufficient securities, in any sum not exceeding five thousand rupees for the faithful and incorrupt behaviour of such person as regards the custom house regulations and its officers; and every person who shall act as such agent not being so licensed shall, for every such offence, be liable to a fine not exceeding the sum of five hundred rupees: Provided always, that nothing herein contained shall extend to forbid the clerk or servant, or known accredited agent of any person or of any mercantile firm, from transacting business at the custom house on account of such person or firm without licence.

XVIII. Duties of customs shall be levied on goods imported by sea from any port not subject to the Government of the East India Company, or from Aden, or any port in the Straits of Malacca, the Tenasserim Provinces, or the Province of Arracan, into any place in the territories subordinate to the Government of the Presidency of Bombay according to the rates specified in Schedule A, annexed to this Act, and with the exceptions specified therein; and the said Schedule shall be taken to be a part of this Act.

XIX. Duties of customs shall be levied upon goods the produce or manufacture of India exported by sea to any port situated beyond the territories subject to the Government of the East India Company, or to Aden, or to any port in the Straits of Malacca, the Tenasserim Provinces or the Province of Arracan,

from any port of the Bombay Presidency, according to the rates specified in Schedule B, annexed to this Act, with the exceptions therein specified; and the said Schedule with the notes attached thereto, shall be taken to be a part of this Act: Provided always, that the ships of any European nation having Firman privileges in the port of Surat, shall not be subject to further duties of import or export than may be prescribed by their Firmans respectively, any thing in the Schedules or in this Act notwithstanding.

XX. Spirits exported from any port subject to the Government of the East India Company, and imported at any other port subordinate to the Government of Bombay, shall be liable on importation to the same rate of duty as may be fixed on spirit of country manufacture by Schedule A, annexed to this Act, or by any future enactment: Provided always, that if the said spirit be accompained by a document signed by competent authority, certifying that a duty, whether of customs or otherwise, has been paid on the said spirit to the East India Company, credit shall be allowed for the sum so paid in settling the customs at the port of import; and if such sum equal or exceed the full amount of customs leviable on spirits of country manufacture under Schedule A, aforesaid, or any future enactment, then the spirit on which such duty has been paid shall be admitted to free entry.

XXI. The Governor in Council may direct that an anchorage toll shall be levied at any port or ports within the Bombay Presidency on all vessels arriving from any other port or ports which may be specified by the said Governor in Council, and such anchorage toll shall be levied at such port or ports on every such vessel on each arrival of such vessel at the rates specified in Schedule C, annexed to this Act: and the said Schedule shall be taken to be part of this Act.

XXII. No goods entered in either of the Schedules of this Act, as liable to duty, shall be exempted from the payment of such duty or of any part thereof, except under special order from the Governor of Bombay in Council, and the Collector of Customs shall detain all goods subject to duty under this Act until such duty shall have been duly paid according to the rules herein provided: Provided always, that the Collector of Cus-

toms or other officer in charge of a custom house, may at his discretion pass free of duty any passenger's personal baggage in actual use, and if any person shall apply to have goods passed as such baggage, the Collector, acting under the orders of Government, shall determine whether they be passenger's personal baggage in actual use, or goods subject to duty under the provisions of this Act.

XXIII. On application by the exporter of any salt that has paid the excise duty, as established by law, a certificate shall be granted by the Collector of Customs at the place of export, under authority of which certificate the quantity of salt specified therein may be landed at any other port of the said Presidency of Bombay, and passed from such port into the interior of the country without the levy of any further duty either of excise or of customs.

XXIV. The Governor of Bombay in Council, from time to time by notice in the official Gazette of that Presidency, may fix a value for any article, or number of articles, liable to duty upon their value, and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying duty on the same.

XXV. When goods liable to duty for which a value has been fixed by such notice, or for which a fixed duty has been declared by the Schedules annexed to this Act, are brought to any custom house in the Bombay Presidency in a damaged state, and such damage is declared previous to the assessment of customs on such goods, the Collector of Customs may make an abatement of customs in proportion to the damage received; and, in estimating such damage, he shall be guided by such rules as the Governor of Bombay in Council may from time to time determine and notify; but if the value of the goods be not deteriorated more than one-fifth part thereof, no abatement of customs shall be allowed.

XXVI. When goods liable to duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed duty has not been declared by the Schedules annexed to this Act, are brought to any custom house in the Presidency of Bombay, for the purpose of being passed for importation or exportation, the duty leviable on such goods, shall be levied

according to the market value of such goods, at the place and time of importation or exportation as the case may be.

XXVII. No goods shall be allowed to be passed through the custom house until a written application, according to a form to be prescribed by the Collector of Customs, shall have been made by the owner, consignee, exporter, importer, or the agent for any of such persons respectively, for permission to pass such goods through the custom house; and such application shall contain a true description of such goods, with the marks, numbers and description of the packages containing the same, and a declaration of their value, and shall set forth the name of the ship in which the goods have been imported, or are to be exported, the name of the master of the said ship, the colors under which the said ship sails, and the country in which the goods were produced. If any goods shall be passed through the custom house, or attempted to be removed therefrom without such an application in writing as is above described, they shall be liable to be seized and confiscated.

XXVIII. The market value for assessment of duties on the goods indicated in Section XXVI. shall be that declared in the application to be made, as aforesaid: Provided always, that the value so declared be admitted by the Collector or by the officer appointed to appraise goods at the custom house; but if the value of the whole or any part of the goods entered in the declaration aforesaid shall seem to the Collector to be understated in such declaration, he shall have power to take the goods, or any part thereof as purchased for the Government at the price so declared; and whenever the Collector of Customs shall so take goods for the Government, payment thereof shall be made to the consignee, importer or exporter within one month from the date of the declaration; if the goods be imported goods, the amount of import duty leviable thereon shall be first deducted, and if the goods be intended for exportation, the entire value as declared, shall be paid without deduction on account of customs duty: and the Collector shall sell the goods so taken on account of Government; and, if they shall realize on sale a sum exceeding all charges incurred on them by Government, a proportion not more than one-half of the excess shall, at the discretion of the Collector, be payable to the officer who

reported the undervaluation of the goods, who shall in like manner be liable to pay one-half of the net loss that may accrue on the sale of the said goods.

XXIX. And whereas under Section XXIV. of this Act, it may be found expedient to fix the dutiable value of certain goods at the rates shewn by their invoice, when it shall appear to the officer of customs appointed to appraise goods at the custom house that any goods are undervalued in an invoice presented for the purpose of assessing customs, he shall report the same to the Collector of Customs, who shall call upon the importer or exporter to declare the market value of the goods in question, and if the value so declared shall appear to the Collector insufficient, he may take such goods for Government at the value so declared, and dispose of them as empowered by Section XXVIII. of this Act.

XXX. Upon any goods liable to duty that may be passed through the custom house for shipment, the application for which shall be presented after port-clearance shall have been taken out, double of the prescribed duty shall, in all cases, be levied, and if the goods (always excepting treasure and opium) be free, or have already paid import duty, or have been imported free under certificate, five per cent. upon the Market value shall be levied thereon, or if the same be imported goods entitled to drawback, the drawback shall be forfeited, but no separate duty shall be levied on drawback goods.

XXXI. When a vessel having cleared out for any port, shall put back from stress of weather, or it shall from any damage, or from other cause be necessary that the cargo of a vessel that has cleared out shall be unshipped or relanded, a customs officer shall be sent to watch the vessel, and take charge of the cargo during such relanding or removal from on board; and the goods on board such vessel shall not be allowed to be transshipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export unless the goods shall be lodged in such place as shall be allowed by the Collector of Customs, and shall remain while on land or while on board of any other vessel under special charge of the officers of customs until the time of re-export, and all charges attending such custody shall be borne by the exporter: Provided however, that in

all cases of return to port after port-clearance on account of damage or for stress of weather, the owner or master may enter the vessel and land the cargo under the rules for the importation of goods, and the export duty shall in that case be refunded, and the amount paid in drawback be reclaimed; and if goods on account of which drawback has been paid, be not found on board the vessel, the master shall be liable to a fine not exceeding the entire value thereof, unless he accounts for them to the satisfaction of the Collector of Customs.

XXXII. When goods shall be re-landed before the lading of any vessel is complete, and before port-clearance has been granted, the duty levied upon such goods shall be returned to the exporter, but no refund shall be made of duty paid on the export of any goods after port-clearance shall have been granted for the vessel on which the goods are exported, unless the vessel shall have put back for stress of weather or for damage, and the goods shall have been re-landed under the rule contained in Section XXXI.

XXXIII. Goods exported in the same vessel on which they were imported, if manifested for re-export, shall not be subject to import or export duty; and, if any goods brought to any port in any vessel be transshipped in such port, they shall in all cases be subject to the same duty as if they had been landed and passed through the custom house for re-exportation in the vessel into which they may be transshipped.

XXXIV. No duty of customs which shall have been charged and paid, and of which repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned unless such claim is made within two years from the date of such payment.

XXXV. With the sanction of the Governor of Bombay in Council, seven-eighths of the customs levied on imports may be repaid as drawback upon the re-export by sea of goods which can be identified to the satisfaction of the Collector of Customs as having previously paid customs duties on import at the same port: Provided that such re-export be made within two years of the date of import by the custom house register, and the drawback be claimed at the time of re-export; but no drawback shall be claimable under this Act on any re-export of

opium or salt, or of goods destined for any port in the territories subject to the Government of the East India Company, except Aden, and ports in the Straits of Malacca, the Tenasserim Provinces, and the Province of Arracan.

XXXVI. Every person who shall counterfeit or falsify, or wilfully use when counterfeited or falsified, any invoice, entry, cocket, or other document for the purpose of clearing, or having customs duties assessed on, any goods, shall be liable to a fine not exceeding one thousand rupees.

XXXVII. If any certificate, manifest, bill, or other custom house documents be lost by any person to whom they may have been issued by the custom house authorities, the Collector of Customs, on being satisfied that no fraud has been committed, or was intended, may grant a duplicate of such lost document upon payment of a fee of not less than one rupee, nor exceeding ten rupees; and further the Collector may authorize any amendment to be made in any import or export application; but, if such amendment be required after such application is entered and recorded in the custom house books, then upon payment of a like fee for any document so entered.

XXXVIII. The master of every vessel on arrival at the port of Bombay shall, on being required by any customs officer who may proceed on board, enter in a printed form with which such officer will be furnished, the information therein required, which shall include the vessel's name and the country to which she belongs, the name of the captain or sailing master, the port from whence she began her voyage, and the date of departure therefrom, also the names of any ports at which she touched during her voyage, and of any vessels she may have spoken, and a list of her passengers; and any master of any vessel who shall refuse to enter such information, or delay to do so for more than two hours after delivery to him of the printed form aforesaid, or wilfully make any false statement in filling up the same, shall be liable to a fine not exceeding five hundred rupees.

XXXIX. On the arrival of any ship, boat, or other vessel at the port of Bombay, the master or commander thereof shall, within twelve hours after he shall have anchored, report to the Collector of Customs the quantity of gunpowder which he has on board, and all such gunpowder in excess of five seers, unless

a greater quantity shall be authorized by Government to be retained on board any vessel, shall be delivered by him in charge of such person as shall be named in an order to be furnished to him for such purpose by a proper officer of Government, and on his failure to make such report, or deliver such excess, he shall be liable to a fine not exceeding five hundred rupees.

XL. When any vessel shall arrive in any port of the Presidency of Bombay, the master shall deliver a certificate of registry of such vessel if registered as a British vessel under Act of Parliament, or if registered under Acts of the Government of India No. X. of 1841 or No. XI. of 1850, a certificate of registry as required by such Acts, or if not registered under either of the said Acts, then the pass or sea letter under which the vessel may have sailed, to the first person duly empowered to receive such certificate of registry or pass, who comes on board; and if no such person comes on board before the anchor is dropped, then such certificate or pass shall be forwarded to the Collector of Customs, or other principal officer of customs on the spot, by the first boat that leaves the vessel after dropping anchor; and, if the port be up a river, or at a distance from the land first made, no inward-bound vessel, except such country craft as are described in Section LIX. of this Act, shall pass beyond such place in such river or adjoining such port as shall be from time to time appointed by the Governor of Bombay in Council, by an order published in the Government Gazette of the Presidency, until the master shall have forwarded, in such manner as may be so ordered by the said Governor, a certificate of registry or pass; and the master of such vessel arriving as aforesaid, shall deliver in duplicate, at the same time and in like manner as he is hereinbefore directed to deliver a certificate of the registry of the vessel, a true manifest of the cargo on board; and if there be no cargo, then a blank manifest made out according to such form as may be prescribed by the Collector of Customs; and the wilful breach or neglect of any of the provisions of this Section shall subject the master to a fine not exceeding one thousand rupees.

XLI. If the manifest so delivered by the master shall not contain a full and true specification of all the goods imported in

the vessel, the said master shall be liable to a fine not exceeding rupees one thousand, and any goods or packages in excess of the manifest so delivered, or differing in quality or kind, or in marks and numbers, from the specification contained therein, that are found on board, or are found after being fraudulently removed from the vessel, shall be liable to be seized by any officer of customs and confiscated, or to be charged with such increased duties not exceeding the value of such goods or packages as may be determined by the Collector of Customs.

XLII. If any inward-bound vessel shall remain outside or below the place that may be fixed by the Governor in Council for the first delivery of manifests, the master shall deliver a manifest as hereinbefore prescribed, to the first person duly empowered to receive such manifest who comes on board, and the master of any vessel entering a port for which there is a custom house established, and being at anchor therein for twenty-four hours, who shall refuse or neglect to deliver the said manifest within that time in the manner above prescribed, shall, for such refusal or neglect, be liable to a fine not exceeding rupees one thousand; and no entry or port-clearance shall be given for such vessel until the fine is paid.

XLIII. No vessel shall be entitled to inward entry or be allowed to break bulk, until a manifest in duplicate, as required by this Act, shall have been received by the Collector of Customs, nor until orders have been given by the said Collector for the discharge of the cargo; and the said Collector may further refuse to give such order, if he shall see fit, until any port-clearance, cocket, or other papers known to be granted at the places from which the vessel is stated to have come, shall likewise be delivered to him.

XLIV. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application for such purpose shall have been made by the master of such vessel to the Collector of Customs, nor until an order shall have been given by the said Collector for shipping export cargo, and in the written application to be made as aforesaid, the name, tonnage, and nation of the vessel shall be described, as also the name of the master, and the name or names of the place or places for which she is bound.

XLV. If in the application prescribed by the preceding Section of this Act, a vessel be described to be bound to any port or ports within the territories of the East India Company, then the Collector of Customs, or, in his absence, his Deputy or Assistant, may refuse a port-clearance to such vessel until the master or commander thereof shall have given a joint bond together with the owner or the consignee of the said vessel, or some other party approved by the Collector of Customs, or, in his absence, by his Deputy or Assistant, by which such parties or one of them shall be bound to produce to the Collector of Customs a certificate from the officer in charge of the port to which such vessel is said to be bound, of her arrival at such port within a fair and reasonable time to be prescribed by the Collector in each case, and in failure of producing such certificate, or showing sufficient reason for its non-production, the parties to the bond aforesaid shall be jointly and severally bound to pay a penal sum equal to double the amount of customs which would have been chargeable on the export cargo of the said vessel had she been declared bound to a port beyond the territories of the East India Company.

XLVI. No goods shall be allowed to leave any vessel or to be put on board thereof, until entry of the vessel shall have been duly made in the custom house of the port, and until order shall have been given for discharge or shipment of the cargo thereof as above provided, and it shall be the duty of every customs officer to seize as contraband any goods which have been removed from or put on board of any vessel in contravention of the above provision; and the master of any vessel who shall permit or neglect to take measures for preventing the landing or shipping of any goods in contravention of the above provisions, shall be liable to a fine not exceeding five hundred rupees.

XLVII. After entry of the vessel at the custom house in due form as above prescribed, such part of the cargo as may not be declared for re-exportation in the same vessel, shall be landed, and export cargo shall be laden on board according to the forms and rules that may be prescribed for the port by this Act, or by order of the Governor of Bombay in Council; and if an attempt be made to land or put on board goods or merchan-

dise in contravention of the forms and rules so prescribed, the goods shall be liable to seizure and confiscation.

XLVIII. If goods entered in the manifest of a vessel shall not be found on board that vessel, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the vessel be not landed at the custom house, or at such other place as the Collector of Customs shall have prescribed, the master shall be liable to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value, and to a penalty equal to twice the amount of duty chargeable on the goods deficient and unaccounted for, if the duty can be ascertained, and if they be not subject to duty, then to a penalty equal to five per cent. on the value of such deficient goods; provided always. that nothing herein contained shall be construed to prevent the Collector of Customs from permitting, at his discretion, the master of any vessel to amend obvious and unintentional errors, or to supply omissions from accident or inadvertence, by furnishing an amended or supplemental manifest.

XLIX. Every master of a vessel who shall remove from such vessel or put on board thereof any goods, or cause or suffer any goods to be removed from thence or put on board thereof between sunset and sunrise, or on any day when the custom house is closed for business, without leave in writing obtained from the Collector of Customs, shall be liable to a fine not exceeding five hundred rupees.

L. When goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat load, or other separate despatch, a boat note specifying the number of packages and the marks and numbers, or other description thereof, and such boat note shall be signed by an officer of the vessel; and if the vessel have a customs officer on board, the boat note must be signed by such officer as well as by an officer of the vessel; and if any imported goods be found in a boat proceeding to land from such a vessel without a boat note, as above provided, or if being accompanied by such boat note they be found out of the proper track between the ship and the proper place of landing, the boat containing such goods may be detained by any officer of

customs duly authorized by the Collector; and unless the cause of deviation be explained to the satisfaction of the Collector of Customs, the goods shall be liable to seizure and confiscation.

LI. Except in special cases sanctioned by the Collector of Customs, twenty days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargo of vessels not exceeding six hundred tons burthen, and thirty days for vessels exceeding that burthen; and the said periods shall be calculated from the date on which the vessel was admitted to entry inward; and if any goods remain on board after the periods above fixed, the Collector may order the same to be landed and warehoused, for the security of the duties chargeable thereon, and of any freight and primage and other demands that may be due thereon, giving his receipt to the master for the goods so warehoused; but the Collector or other officer in charge of the custom house, with the consent of the master of the vessel, may cause any packages to be brought on shore and to be deposited in the Government warehouses, although the periods above fixed have not expired.

LII. No vessel shall depart from any port of the Presidency of Bombay without a port-clearance being granted by the Collector of Customs or other proper officer duly authorized by the Governor of Bombay in Council to grant the same, and application shall be made for such port-clearance at least twenty-four hours before the intended departure of the vessel; and no such port-clearance shall be granted to any square-rigged vessel sailing from the port of Bombay until the following documents shall have been produced to the Collector of Customs or other officer:—

1st,—The certificate of registry of the vessel if registered a British vessel under Act of Parliament, or if registered under the Acts of the Government of India No. X. of 1841, or XI. of 1850, a certificate of registry as required by such Acts, or if not registered under either of the aforesaid Acts, then the pass or sea letter under which the vessel shall be sailing.

2nd,—A certificate from the Senior Magistrate of Police, that there is no objection in his department to a port-clearance being granted to the vessel.

3rd,—A like certificate from the Indian Naval Store-keeper

of all demands as regards his office on the vessel having been satisfied.

4th,—A like certificate from the Marine Paymaster.

5th,—A like certificate from the Registrar of Shipping.

6th,—A list of the crew and (if any) of the passengers; but if none, then a declaration of the master to such effect.

Provided always, that it shall be lawful for the Governor of Bombay in Council in any cases of necessity or special emergency, to authorize the granting of such port-clearance without the production of any one or more of the documents hereinbefore enumerated, and on such terms and conditions as he may think fit.

LIII. The master of every vessel leaving any port in the Bombay Presidency shall, at the time of applying as above prescribed for a port-clearance, deliver to the Collector of Customs or other principal customs officer of such port in duplicate a true manifest of the cargo on board, and if there be no cargo, then a blank manifest made out according to such form as may be prescribed by the Collector of Customs; and if such manifest so delivered shall not contain a full and true specification of all goods to be exported in the vessel, the said master shall be liable to a fine not exceeding one thousand rupees; and any goods or packages found on board in excess of the manifest so delivered, or differing in quantity, or in kind, or in marks, or in numbers from the specification contained therein, shall be liable to be seized by any customs officer and confiscated, or charged with such increased duties not exceeding the value of such goods or packages as may be determined by the Collector of Customs.

LIV. If any goods shall be taken on board of any vessel after port-clearance, it shall be incumbent on the master of such vessel to amend the export manifest of such vessel in presence of the Collector of Customs, unless a special permission be granted by that officer; and the master of any vessel who may contravene the provisions of this Section, shall be liable to a fine not exceeding one thousand rupees.

LV. If any vessel shall depart or attempt to depart without a port-clearance, as directed by this Act, the master shall be liable to a penalty not exceeding one thousand rupees, which may be recovered from the master or any owner of the vessel.

LVI. No transshipment shall be made of any goods except under special order in writing from the Collector of Customs of the port; and an officer of customs shall in all cases be deputed to superintend the removal of the goods from vessel to vessel; and if any goods are transshipped or any attempt be made to transship any goods without a special order as aforesaid, such goods shall be liable to confiscation.

LVII. The Governor of Bombay in Council may declare by public notice, in the official Gazette of that Presidency, what places within the same shall be ports for the landing and shipment of merchandise, and any goods landed or attempted to be landed at any other port than such as shall be so declared, shall be seized and confiscated.

LVIII. There shall be in every port of the Bombay Presidency one or more places for the landing and shipment of goods, and goods shall not be landed or embarked at any other place without the special order in writing of the Collector of Customs for the port; and, if any goods be landed or embarked, or an attempt be made to land or embark any goods at any other than the said authorized places without such order, they shall be seized and confiscated.

LIX. The Governor of Bombay in Council may establish rules for the anchorage of the coasting and country craft of the British territories, for the delivery of manifests of the cargo of such vessels, and for the landing of goods therefrom, and shipping and transshipping of goods therein: and whoever, being in charge of any such craft or being owner of the vessel or of any part of her cargo, shall knowingly contravene any such rule, shall be liable to a fine not exceeding one hundred rupees for each offence.

LX. Goods which shall be brought to be passed through the custom house, either for importation or exportation by sea, shall be liable to confiscation if the packages in which the same may be contained shall be found not to correspond with the description of them given in the application for passing them through the custom house, or if the contents thereof be found not to have been correctly described in regard to sort, quality or quantity, or if in or among the packages any goods not stated in the application be found concealed in or mixed up with the specified goods.

LXI. Any exported goods which shall be found in the harbour, or any imported goods which shall be found on the wharf, of any port under the Bombay Presidency, shall be liable to confiscation, unless the owner, consignee, or other parties interested in the said goods, shall prove in the case of exported goods that they have been duly passed through the custom house, or, in the case of imported goods, that they have been landed according to the rules prescribed by this Act, preparatory to their being so passed.

LXII. The Governor of Bombay in Council, by an order in Council, may fix and from time to time alter rates of rent to be charged on goods placed in the Government warehouses, or which may be, beyond such period as may be determined by the Governor in Council, lying on the custom house wharf or other authorized landing places.

LXIII. The unshipping, carrying, shipping and landing of all goods, and the bringing of the same to the proper place for examination or for weighment, and the putting the same into and out of the scales, shall be performed by or at the expense of the importer or exporter of such goods.

LXIV. The Collector of Customs, whenever he shall see fit, may require that goods brought by sea, and stowed in bulk, shall be weighed or measured on board ship before being sent to land, and may levy duty according to the result of such weighing or measurement.

LXV. The Governor of Bombay in Council, from time to time, may issue such rules as appear to him expedient for landing or shipping passengers' baggage, and passing the same through the custom house, and also for landing, shipping and clearing parcels forwarded by Her Majesty's or the East India Company's mails, or by other regular packets and passenger vessels; and when any baggage or parcels are made over to the custom house officer, for the purpose of being landed, a fee of such amount as the Governor of Bombay in Council may from time to time direct shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the custom house.

LXVI. If any person, after goods have been landed and before they have been passed through the custom house, re-

moves or attempts to remove them with the intention of defrauding the revenue, the goods shall be liable to confiscation, unless it shall be proved, to the satisfaction of the Collector of Customs, that the removal was not sanctioned by the owner or by any person having an interest in or power over the goods; on such proof, the goods shall not be liable to confiscation, but the party or parties so removing or attempting to remove the goods, shall be liable to a fine not exceeding the value of the said goods.

LXVII. In case of any goods landed from any vessel not being claimed and cleared from the custom house within three months from the date of entry of the ship in which such goods were imported, the Collector, after publication of a description of the same in the Government Gazette, may sell the same on account of the duties and other charges due thereon; and the balance remaining after deducting the said duties and charges shall be held in deposit, and paid to the owner on application; provided that such application be made within two years of the sale of the goods, or good reason be shewn why such application has not been so made.

LXVIII. If the Governor of Bombay in Council shall see fit for the security of customs at any port to maintain special establishments of boats for landing and shipping merchandise, or to license and register the cargo boats plying in any ports, then, after due notification thereof, no person shall convey goods to or from any vessel in such port otherwise than in the boats so authorized and prescribed, except under special permit from the Collector of Customs at the port: and any goods found on board of other boats than those so authorized for the port, shall be liable to be seized by any officer of customs and shall be liable to confiscation; and the tindal or owner of any such boat shall be liable to a fine not exceeding fifty rupees for each offence.

LXIX. When the Governor of Bombay in Council shall see fit to maintain at any port an establishment of officers to be sent on board of vessels to watch their unlading and lading, then after due notification shall have been given that such establishment is so maintained at any port, the Collector of Customs at that port shall have power at his discretion to send one or

more officers of such establishment to remain on board of any vessel in such port by night and by day until the vessel shall leave the port, or it shall be otherwise ordered by the Collector.

LXX. Any master of such vessel at such port, who shall refuse to receive an officer so deputed with one servant on board, or who shall not afford such officer and servant suitable shelter and accommodation while on board, and likewise furnish them with a due allowance of fresh water if necessary, and with the means of cooking on board, shall be liable to a fine not exceeding one hundred rupees for each day during which such officer and servant continue on board, and shall not be received and provided with suitable shelter and accommodation.

LXXI. If application be made to the Collector for an extension of the period allowed in Section LI. of this Act for the discharge of import cargo of any vessel on board of which a custom house officer shall have been placed, and the Collector may see fit to grant any such extension, the master of such vessel shall be charged with the wages of such officer and other expenses, for such period as such officer may be detained on board beyond the period fixed by Section LI. of this Act.

LXXII. If any officer shall be placed on board for the purpose of superintending the lading of any vessel, and the unlading and lading of such vessel be continuous, then a period of twenty days shall be allowed for taking in export cargo; and the said period shall be calculated from the termination of the period allowed for discharging cargo by Section LI. of this Act; and the master thereof shall be charged for the wages and expenses of the customs officer on board after the expiration of such additional period. But, if the unlading and lading of any vessel be not continuous, and a customs officer is appointed to superintend the lading thereof, then the period of thirty days shall be allowed from the date of entry of the vessel outwards, and the master of the vessel shall be charged for the wages and expenses of the customs officer on board after the expiration of that period.

LXXIII. When the unlading and lading of any vessel is not continuous, the customs officer shall be removed from on board such vessel so soon as the import cargo has been fully discharged, and shall be replaced on board such vessel on the entry

outwards of such vessel; and the master of any such vessel who, before a customs officer has again been placed in such vessel, shall put on board or cause or suffer to be put on board of such vessel, any goods whatever, shall be punished with a fine not exceeding one thousand rupees, and the goods shall be liable to be relanded for examination at the expense of the shippers, upon requisition to that effect from the Collector of Customs.

LXXIV. Whenever a Collector of Customs shall see cause to direct that any vessel shall be searched, he shall issue his warrant or written order for such search, addressed to any officer under his authority; and upon production of such order, the officer bearing it may require any cabins, lockers or bulk-heads to be opened in his presence, and if they be not opened upon his requisition, may break the same open; and any goods found concealed, and not duly accounted for to the satisfaction of the Collector of Customs, shall be liable to seizure and confiscation; and any master or person in charge of a vessel who shall resist such officer, or refuse to allow the vessel to be searched when so ordered by the Collector of Customs, shall be liable for every such offence to a fine not exceeding one thousand rupees.

LXXV. If any officer of customs shall see cause to search any person on board, or who shall have landed from any vessel, or any person passing or having passed through the custom house or any custom station, such person, before being searched, may require such officer to take him before the Collector or a Justice of the Peace, who shall determine whether there is reasonable ground to suppose that such person has any uncustomed or prohibited goods on his person; and if such Collector or Justice shall think there is reasonable ground for such supposition, then he shall direct such person to be searched in such manner as he shall think fit, otherwise he shall forthwith discharge such person; but no female shall be searched otherwise than privately, or by any other person than a female duly authorized by such Collector or Justice; and any officer who shall not take such person with reasonable despatch before such Collector or Justice when so required, or who shall require any person to be searched without having reasonable ground to suppose that he has uncustomed or prohibited goods on his person, or who shall cause any female to be unlawfully searched, shall be liable to forfeit and

pay a sum not exceeding one hundred rupees; and if any person suspected of having any uncustomed or prohibited goods on his person, or in his possession, shall, on being questioned by any officer of customs in regard thereto, deny the same, and any such goods shall after such denial be found on his person, or in his possession, such goods shall be seized and confiscated, and such person shall forfeit double the value of such goods in addition to the goods confiscated.

LXXVI. Any officer of customs acting under the warrant of any Commissioner or Collector of Customs, may take a constable and a sufficient number of peons, (who shall, on the requisitions of the Collector for such purpose, be furnished by the superintendent of police in Bombay or the proper police authority in any Zillah,) and between sunrise and sunset may enter into and search any house, shop, cellar warehouse, room, or other place, and in case of resistance may break opon doors, chests, trunks and other packages, and may seize and bring thence any uncustomed or prohibited goods, and put and secure the same in the custom house warehouse in the port next to the place whence such goods shall be so taken as aforesaid; and such goods shall be liable to confiscation; provided always, that no Commissioner or Collector of Customs shall issue any such search-warrant except upon information on oath or solemn declaration formally laid before him

LXXVII. No cargo-boat laden with goods intended for exportation by sea shall make fast to, or lie alongside of any vessel on board of which there shall be a customs officer stationed, unless there shall be on board the boat, or have been received by the said customs officer, a custom house permit or order for the shipment of the goods, and the goods on board of any boat that may so be alongside, or be made fast to a vessel, and not covered by a custom house pass accompanying them, or previously received by the customs officers on board the said vessel, shall be liable to sezure and confiscation.

LXXVIII. All fines, for the recovery of which no special provision is herein-before made, may be recovered, on conviction of the offender, before a magistrate or other person competent to adjudicate on the offences, and payment thereof may be enforced under Act II. of 1839.

SCHEDULE A.

Rates of duty to be charged on goods imported by sea into any port of the Presidency of Bombay from any port or place not subject to the Government of the East India Company, or from Aden, or from any port or place in the Straits of Malacca, the Tenasserim Provinces, and the Province of Arracan.

Nos.	Enumeration of Goods.	The Produce or manufacture of The United Kingdom or any British possession: Rate of duty on the value.	The Produce or manufacture of Any other Place: Rate of duty on the value.
1.	Bullion and Coin, - - -	Free.	
2.	Precious Stones and Pearls, -	Ditto.	
3.	Grain and Pulse, - -	Ditto.	
4.	Horses and other living Animals, - - -	Ditto.	
5.	Ice, - - - - - -	Ditto.	
6.	Coal, Coke, Bricks, Chalk and stones, (marbles and wrought stones excepted,) - - - -	Ditto.	
7.	Cotton Wool, 9 annas per Indian Maund, - -		
8.	All Machinery imported into India for improvement of the communications and for development of the commercial resources of the country, - - -	Ditto.	
9.	Opium covered by a Pass,- -	Ditto.	
10.	Opium not covered by a Passs, - - - -	24 Rupees per Seer of 80 Tolahs.	
11.	Books, - - - -	Free.	3 per Cent.
12.	Marine Stores, - - -	5 per Cent.	10 per Cent.
13.	Metals, wrought or unwrought, - - -	5 per Cent.	10 per Cent.
14.	Woollens, - - - -	5 per Cent.	10 per Cent.
15.	Cotton and Silk Piece Goods, and all manufactures of Cotton and Silk, (except Thread, Twist and Yarn), or of Cotton or Silk mixed with any other materials, - -	5 per Cent.	10 per Cent.
16.	Cotton Thread, Twist and Yarn, - - -	3½ per Cent.	10 per Cent.

17.	Porter, Ale, Beer, Cyder, and other similar fermented Liquors, - - -	5 per Cent.
18.	Salt not covered by a Pass, - - -	12 annas per Indian Maund.
19.	Alum, - - - - -	10 per Cent.
20.	Camphor, - - - -	10 ditto.
21.	Cassia, - - - - -	10 ditto.
22.	Cloves, - - - - -	10 ditto.
23.	Coffee, - - - - -	7½ ditto.
24.	Coral, - - - - -	10 ditto.
25.	Nutmegs and Mace, - - -	10 ditto.
26.	Pepper, - - - - -	10 ditto.
27.	Ratans, - - - -	7½ ditto.
28.	Tea, - - - -	10 ditto.
29.	Vermillion, - - - -	10 ditto.
30.	Wines and Liqueurs, - - -	1 Rupee per Gallon.
31.	Spirits, of European and Foreign manufacture, at or below London proof, -	1 Rupee 8 ans. per Gallon.
32.	Spirits, of Country manufacture, including Ceylon Arrack, - - -	9 annas per Gallon.

NOTE.—The duty on all Spirits shall be ratably increased as the strength exceeds London proof.

33.	Tobacco and all preparations thereof when the market value does not exceed 30 Rupees per Indian Maund, - -	1 Rupee 8 annas per Indian Maund.
34.	Ditto ditto ditto, when the market value exceeds Rs. 30 per Indian Maund, - -	5 per Cent. on the value.
35.	Ditto ditto, on removal from Bond for consumption in the Island of Bombay, -	7½ Rs. per Indian Maund
36.	All articles not included in the above enumeration, - - - -	5 per Cent. on the value.

SCHEDULE B.

Rates of Duty to be charged on goods exported by sea from any port or place in the Presidency of Bombay to any port or place not subject to the Government of the East India Company, or to Aden, or any port or place in the Straits of Mallacca, the Tenasserim Provinces, and the Province of Arracan.

NOS.	ENUMERATION OF GOODS.	RATE OF DUTY.
1.	Bullion and Coin. - - -	Free
2.	Precious Stone and Pearls, - -	Ditto.
3.	Books, Maps and Drawings, printed in India - - - - -	Ditto.
4.	Horses and living Animals, - -	Ditto.
5.	Opium covered by a pass, - -	Ditto.
6.	Opium not covered by a Pass, -	Prohibited.
7.	Cotton Wool, - - -	Free.
8.	Sugar and Rum, - - -	Ditto.

9.	Salt having paid Excise duty as prescribed by Law, - - -	Free.
10.	Salt not covered by a Pass or Certificate of having paid Excise duty or Import Customs duty, - - -	Prohibited.
11.	Spirits. - - -	9 annas per Gallon.
12.	Tobacco and all preparations thereof, -	1 Rupee 8 annas per Indian Maund of 80 Tolahs to the Seer.
13.	All Articles produced or manufactured in the territories governed by the East India Company, and not enumerated or named above, - -	3 per Cent. on the value.
14.	All Articles produced or manufactured in any foreign territory uncovered by a certificate of having paid import duty,.	3 per Cent. on the value.

SCHEDULE C.

Anchorage Tolls on Country Craft.

	Candies.		Indian Maunds.			Candies.		Indian Maunds.	Rupees.	Annas.	Pies.
Above	10	=	100	not	exceeding	20	=	200	1	0	0
"	20	-	-	-	-	40		-	1	8	0
"	40	-	-	-	-	60		-	2	0	0
"	60	-	-	-	-	80		-	2	8	0
"	80	-	-	-	-	100		-	3	0	0
"	100	-	-	-	-	150		-	3	8	0
"	150	-	-	-	-	200		-	4	0	0
"	200	-	-	-	-	250		-	4	8	0
"	250	-	-	-	-	300		-	5	0	0
"	300	-	-	-	-	350		-	5	8	0
"	350	-	-	-	-	400		-	6	0	0

BOMBAY.—LAND CUSTOMS.

ACT No. II. OF 1852.

[*Passed on the 2nd January*, 1852.

1. *Customs duties on goods passing by land into or out of Foreign European settlements shall be levied at the rates prescribed by Act* 1, 1852.

2. *G. in C. may declare territory of native chief foreign territory and goods passing into or out of it liable to double duties.*

3. *For the levy of land customs on frontier, certain chokees may be established; officers at such chokees may examine goods, and prevent their passing till certificate of payment of duty is produced.*

4. *Officer of Sea Customs may grant certificate of payment of duties, and such certificate shall entitle goods to pass at frontier chokee.*

5. *G. in C. to appoint proper officer for receipt of duties on frontier, who shall give certificate of payment: What such certificate shall contain.*

6. *No certificate to be received at any chokee more than* 30 *days after date, certificates may be renewed, if not used.*

7. *G. in C. may prescribe by what routes goods shall be allowed to pass into or out of foreign territory: Goods sent by other routes, except through ignorance or mistake, shall be sent back.*

8. *Goods unlawfully passed or attempted to be passed between sunrise and sunset across guarded frontier, to be confiscated.*

9. *Chokee officer permitting goods to pass uncovered by certificate, or to pass by prohibited route, to be imprisoned not exceeding* 6 *months or fined not exceeding* 500 *rupees.*

10. *Chokee officer needlessly or vexatiously injuring goods, under pretence of examining, &c. or wrongfully detaining goods covered by pass, to be imprisoned not exceeding* 6 *months or fined not exceeding* 500 *rupees, &c.*

11. *Confiscations and penalties under this Act recoverable as under Act* 1,1852.

An Act for the collection of Land customs on certain foreign frontiers of the Presidency of Bombay.

Whereas it is expedient to provide for the collection of Land Customs on certain Foreign Frontiers, It is enacted as follows:

I. Duties of Customs shall be levied on Goods passing by land into or out of Foreign European Settlements, situated on the line of Coast within the limits of the Presidency of Bombay, at the rates prescribed in the Schedules of Act I. of 1852, at the ports of that Presidency.

II. The Governor of the Presidency of Bombay in Council may declare, by notice to be published in the official Gazette of that Presidency, that the territory of any Native Chief, not subject to the jurisdiction of the Courts and Civil Authorities of that Presidency, shall be deemed to be Foreign Territory, and may declare Goods passing into or out of such Territory, liable either to the Duty fixed by the Schedules of Act I. of 1852, for Goods imported or exported at the ports of that Presidency, or to double the said Duties as the Governor of Bombay in Council may think fit.

III. For the levy of Duties of Customs as above provided on Goods exported by land to, or imported by land from, such

Foreign Territories, Customs Stations may be established at such places as may be determined by the said Governor of Bombay in Council; and every Officer at every such Station shall have power to detain Goods passing into or out of any such Foreign Territory, and to examine and ascertain the quantities and kinds thereof; and such Goods shall not be allowed to pass across the Frontier line out of or into the Territory of the East India Company, until the owner or person in charge thereof shall produce and deliver a certificate shewing that the Customs Duty leviable thereupon has been paid.

IV. Any Officer of Sea Customs may receive money on account of Customs, and grant certificates of the payment thereof; and any such certificate, being delivered to any Station Officer, shall entitle the Goods therein mentioned to cross the Frontier into or out of the East India Company's Territories, provided that the Goods correspond with the specification thereof contained in such certificates, and that the certificates shew the entire amount of Duty leviable on those Goods to have been duly paid; and if upon examination the Goods brought to any Station be found not to correspond with the specification entered in the certificate presented with the same, the difference shall be noted on the face of the certificate; and if the payment of Duty certified therein shall not cover the entire amount of Duty leviable on the Goods, as ascertained at such examination, the Goods shall be detained until further certificate for the difference shall be produced.

V. The said Governor of Bombay in Council shall appoint proper Officers to receive Customs Duties on Goods crossing the Land Frontier of the said Foreign Territories; and the Officers so appointed shall, on the receipt of money tendered as Customs Duty, be bound to give any merchant or other person applying for the same a certificate of payment, and to enter therein the specification of goods, with the values and description thereof, according to the statement furnished by the person so applying; provided only, that the proper Duty leviable thereupon, according to the descriptions and values stated, be covered by the payment made.

VI. No certificate shall be received at any Station that shall bear date more than thirty days before the date when the Goods

arrived at such Station; but any person, who has taken out a certificate from any authorized Receiver of Customs Duties, shall be entitled, at any time within the said period of thirty days on satisfying such Receiver that such certificate has not been used, and on delivering up the original, to receive a renewed certificate with a fresh date without further payment of Duty.

VII. The said Governor of Bombay in Council may prescribe, by public notice in the official Gazette of the Presidency of Bombay, by what ways Goods shall be allowed to pass into or out of any such Foreign Territory, as is described in Sections I. and II. of this Act; and after such notice, Goods which may be brought to any Station established on other roads or passes than those so prescribed, shall, if provided with a certificate, be sent back, and if not provided with a certificate, shall be detained, and shall be liable to confiscation by the Collector of customs, unless the person in charge thereof shall be able to satisfy the said Collector that his carrying them by that road or pass was from ignorance or accident.

VIII. Goods unlawfully passed, or attempted to be passed unlawfully, across any Frontier guarded by Stations, between sunset and sunrise, shall be seized and confiscated.

IX. Any Station Officer who shall permit Goods to pass across the Frontier, when not covered by a sufficient certificate, or who shall permit Goods to pass by any road or pass other than the prescribed ways, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months and to a fine not exceeding five hundred Rupees, commutable, if not paid, to imprisonment for a further period of six months.

X. Any Station Officer who shall needlessly and vexatiously injure Goods under the pretence of examination, or in the course of his examination, or who shall wrongfully detain Goods for which there be produced a sufficient certificate, shall, on conviction before any Magistrate, be liable to imprisonment for any term not exceeding six months, and to a fine not exceeding five hundred Rupees, commutable, if not paid, to imprisonment for a further period of six months.

XI. All confiscations and penalties under this Act may be adjudicated, by Officers competent to adjudicate, like confiscations and penalties under Act I. of 1852, and such Officers shall

be subject to the same liabilities and rules in adjudicating such penalties and confiscations as they are subject to when adjudicating the like confiscations and penalties under the provisions of the aforesaid Act.

BOMBAY.—SPIRITUOUS LIQUORS.

ACT No. III. OF 1852.

[*Passed on the* 16*th January*, 1852.

1. *Empowers the G. in C. to introduce arrangements for assessment and collection of duties on Spirits, not inconsistent with this Act.*

2. *Collector may grant certain licences for manufacture of Spirits at his discretion.*

3. *Collector not obliged to accept highest offer for farm of abkaree duties.*

4. *No person to sell Spirits by retail without licence in form specified.*

5. *Spirits not to be manufactured without licence. What the licence shall specify.*

6. *Spirits not to exceed certain strength, or be confiscated or liable to double duty.*

7. *Spirits manufactured under a licence, not to be removed without a pass certifying payment of duty and directing specified particulars.*

8. *Empowers Collector to employ establishments necessary to protect revenue.*

9. *Spirits when imported by land from one part of territories of E. I. C. or one part of Presidency to the other, shall be liable to same duty as Spirits imported by Sea.*

10. *Prohibits manufacture, preparation and sale of drugs or drink from Bhang, Ganja, Grain, Opium, &c. except under licence, which Collector may refuse to give or having given may re-call, &c.*

11. *Prohibits adulteration of Spirits by Mixture of noxious drugs, &c.*

12. *Offenders against this Act or against terms of licence to be fined, &c. and imprisoned on default of payment, &c.*

13. *Powers of Collector under R.* 21, 1827, *C.* 13 *to extend to provisions of this Act.*

14. *Empowers Collector to seize unlicensed liquor, &c. and unlicensed stills, &c. and sell same on behalf of Government.*

15. *All duties and powers of Collector may be exercised by officer specially appointed under R.* 21, 1827, *S.* 55.

16. *Certain powers of Collectors may be exercised by Mamlutdars and Mahalkurrees, &c.*

17. *Collectors, Magistrates and others not to be liable to civil suits for Acts done by them bonâ fide and on reasonable and probable grounds.*

18. *Act not to have effect within the local jurisdiction of Supreme Court.*

An Act to amend the law relating to spirituous and intoxica-

ting liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay.

Whereas Chapters XI. and XII. of Regulation XXI. of 1827 of the Bombay Code have been found to be difficult of application in some parts of the territories subordinate to the Presidency of Bombay, owing to local and peculiar causes, It is enacted as follows:

I. The Governor of Bombay in Council may introduce into any part of the said territories such arrangements for the assessment and collection of the revenue derivable from the manufacture and retail sale of spirits as local circumstances in each case, in the judgment of the said Governor in Council, may require, the same not being inconsistent or incompatible with the provisions of this Act.

II. The licences mentioned in Section LVIII., Clause 1, Regulation XXI. of 1827 of the Bombay Code may be granted by the Collector at his discretion, for the manufacture of spirits at any place within his Collectorate, whether a sudder distillery be there established or not.

III. It shall not be imperative on the Collector to accept the highest offer for the farm of the Abkaree duties under Section LX., Clause 2, Regulation XXI. of 1827 of the said Code, but the Collector shall be at liberty to use his discretion as to the tender he will accept under the general instructions of Government.

IV. No person shall directly or indirectly retail in the said territories spirits, however or wheresoever manufactured, except under the authority of a licence from the Collector, to be granted in the form of Appendix I. to the said Regulation XXI. of 1827, or in such form, and after payment of such fee, as Government may from time to time appoint.

V. Spirits may be manufactured in the said territories for exportation or removal under a licence from the Collector, but not otherwise; and such licence, when granted, shall specify the spirit so authorized to be manufactured, the place at which, and the period for which the manufacture may be carried on, and that the same is permitted for the purpose of removal or exportation only.

VI. Spirits manufactured under the last Section shall not

exceed the strength which may, from time to time, be declared by public notification in each district, and shall be liable to the payment of such duty as the Governor in Council shall, from time to time, impose. Liquor found to exceed the prescribed standard shall be liable to double duty, or confiscation, at the discretion of the Collector.

VII. Spirits manufactured under the fifth Section of this Act, shall not be removed from the place of manufacture, except under a pass from the Collector, certifying the payment of the aforesaid duty, and specifying the name of the person exporting or removing the same, the quantity of spirits, their destination, the route by which they are to be conveyed, and the dates from and to which the pass shall be in force, which pass shall exempt the spirits lawfully removed under it from the payment of any further duty in their progress through the same territories, excepting always such import or Customs duty, if any, as may be payable at the place of their destination under any Act or Regulation now or hereafter to be in force.

VIII. The Collector may place such establishments on the premsies where the manufacture of spirits for exportation or removal is permitted, and may adopt such other precautions as may be necessary to give effect to the provisions of this Act having reference thereto.

IX. Spirits imported by land from any part of the territories of the East India Company, whether subordinate to the Government of Bombay or not, into any other part of the said territories subordinate to the said Government, shall be liable on importation to the same rate of duty, under the same circumstances and rules as are provided in Section XX. of Act No. I. of 1852, for amending the Customs laws of the Bombay Presidency with respect to spirits imported by sea.

X. It shall not be lawful; in any part of the territories subject to the Government of Bombay, to manufacture or prepare for sale, or sell directly or indirectly, any intoxcating drugs or materials, or any intoxicating drink or preparation manufactured from Bhang, Ganja, Grain, Opium, or other materials, of what nature or description soever, except under a licence from the Collector of the Zillah, and it shall be competent to the Collector to refuse or to re-cal such licence whenever he shall deem it

expedient, and every such licence when granted shall specify the name of the drug, material, drink, or preparation so authorized to be manufactured or sold, the place or district of manufacture or sale, and the length of time for which such licence is to run, and any other terms or conditions which the Governor of Bombay in Council may from time to time deem it expedient to require, and such fees shall be demanded from time to time, on the grant of such licences, as the said Governor in Council may sanction.

XI. It shall not be lawful to mix any noxious drug or material in, or by other process to adulterate spirits manufactured under the provisions of the said Regulation XXI. of 1827, or of this Act.

XII. All persons offending against, or aiding others in offending, directly or indirectly, against any of the provisions of this Act, or committing a breach of any of the conditions of a licence to be granted under this Act, or obstructing Officers or others in the execution of their duties connected with any of its provisions, shall be punished by fine not exceeding Rupees five hundred, to be commuted, in default of payment, to imprisonment not exceeding six months; and any person having in his possession intoxicating drinks or preparations manufactured contrary to the provisions of this Act, or for which he is unable satisfactorily to account, shall be deemed to be possessed of them illegally, and shall be subject to the penalties above specified.

XIII. The powers conferred on the Collector by Chapter XIII. of the said Regulation XXI. of 1827, shall extend and be applicable to the provisions of this Act, so far as the same are capable of being so applied.

XIV. The Collector shall have full powers to seize and destroy all unlicensed liquor, preparations, drugs, or materials, and all unlicensed stills, and to sell the same, if deemed expedient, on behalf of Government.

XV. The duties, powers, and authorities hereby vested in the Collector shall devolve upon, and may be lawfully exercised by the officer specially appointed under Section LV. of the said Regulation XXI. of 1827, for the purposes herein mentioned.

XVI. The powers vested in the Collectors of Land Revenue by Chapter XIII. of the said Regulation XXI. of 1827, and by Sections XII., XIII. and XIV. of this Act, may be exercised by

Mamlutdars and Mahalkurrees; provided always that those Officers shall not be authorized to adjudge any fine exceeding Rupees fifteen in amount, commutable, in default of payment, to twenty days' imprisonment; and provided further, that any order passed by a Mamlutdar or Mahalkurree in virtue of this Act shall be subject to appeal to the Collector or his Assistants, within one month from its date, and that no suit for damages shall be instituted in a Civil Court by persons deeming themselves aggrieved by any proceeding of a Mamlutdar or Mahalkurree under the authority of this Act, unless they shall first have made an appeal to the Collector or his Assistants.

XVII. In all actions or civil suits which may be brought against Collectors, Magistrates or others for acts done by them in carrying out the provisions of this Act, or the provisions of the said Regulation XXI. of 1827, if it shall appear at the trial that the act complained of was done *bonâ fide*, and that there were reasonable and probable grounds for the same, the plaintiff shall be nonsuited with full costs to be paid by him.

XVIII. This Act shall not have effect within the local jurisdiction of Her Majesty's Supreme Court.

EMIGRATION.

ACT No. IV. OF 1852.

[*Passed on the* 16*th January*, 1852.

1. *Repeals Act* 21, 1844, *as respects carrying emigrant labourers from Calcutta.*

2. *Ships with emigrants from Calcutta to Jamaica, British Guiana and Trinidad to depart only between* 31*st August and* 1*st March.*

3. *Directs that no two-decked vessel shall carry emigrant labourers unless there is space specified between such decks.*

4. *Repeals Act* 21, 1843, *S.* 1. *and enacts that emigration to Mauritius from Bombay may take place under Act* 15, 1842.

5. *G. in C. of Bombay may nominate Protector of Emigrants at Bombay, and no emigrant to leave Bombay without a certificate of having been engaged by Agent of Mauritius, &c.*

An Act to amend the law relating to emigrant vessels and the emigration of labourers.

Whereas by Section VIII. Act XXI. of 1844, it was among

other things enacted, that no ship or vessel carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, should sail from Calcutta, Madras, or Bombay, at any other time than between the 30th day of any September and the 1st of March next thereafter ensuing: and whereas the said provision was repealed by Act XXV. of 1845, so far as regarded vessels carrying emigrant labourers from Madras, and has been found inconvenient for vessels carrying emigrant labourers from Calcutta; and whereas it is expedient to amend the law relating to the height between decks in emigrant vessels, and whereas by Section 1., Act., XXI. of 1843, it was enacted, that emigration to Mauritius should only lawfully take place under the provisions of Act. XV. of 1842, from the Port of Calcutta; and whereas by Act VIII. of 1847, the emigration of labourers from the Port of Madras to Mauritius was declared lawful, and it is now expedient to repeal Section 1., Act XXI. of 1843, and to render lawful the emigration of labourers from the Port of Bombay to Mauritius, It is enacted as follows:

I. So much of Act XXI. of 1844 as is hereinbefore recited, is repealed, so far as regards ships or vessels carrying emigrant labourers from Calcutta.

II. No ships or vessels carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, shall sail from Calcutta at any other time than between the thirty-first day of any August and the first day of March next thereafter ensuing.

III. No ship or vessel carrying emigrants and having more than one deck, shall have less than the height of five feet and six inches at the least between decks, and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck in such manner as to afford a space of the height of five feet and six inches at the least, and such platform shall not be so laid as that the lower beams shall project above the same, and whatever may be the tonnage of the ship or vessel, no greater number of emigrant labourers shall be taken on board such ship or vessel than shall be after the rate of one emigrant labourer for every seventy-two cubic feet of space between decks, or between the deck and platform, unoccupied by goods or stores not being the personal luggage of such emigrant labourers, any thing in Act XV. of 1842, or in the Schedule therein mentioned, to the contrary notwithstanding.

IV. Section I., Act XXI. of 1843 is hereby repealed, and from and after the passing of this Act, emigration to Mauritius may lawfully take place under the provisions of Act XV. of 1842 from the Port of Bombay, as well as from the Ports of Madras and Calcutta.

V. The Governor in Council of Bombay may nominate a proper person to act as Protector of Emigrants at Bombay, and no emigrant shall be permitted to embark without a certificate from the Agent appointed by the Government of Mauritius, countersigned by the Protector, to the effect that such person has been engaged by such Agent, on the part of the said Government, as an emigrant to Mauritius.

MARRIAGE ACT.

ACT No. V. OF 1852.

[*Passed on the 16th January*, 1852.

Recites Act entitled "For Marriage in India" (14 *and* 15 *V. C.* 40).

1, 2. *Notice of intended marriage to be given* (*in form A.*), *to Marriage Registrar of district where parties reside; and* (2) *such notice to be filed by Registrar kept and entered in "Marriage Notice Book," which shall be open to inspection without fee.*

3. *Marriage Registrars to publish such notices, in specified manner, and in case of marriage of minor, copy of such notices to be sent to other Registrars of same district, &c.*

4, 5. *Minor not to be married until expiration of* 14 *days after notice, unless* (5) *specially ordered by Supreme Court to issue certificate for marriage in less time.*

6. *Certificate for marriage in Form B. to be issued by Marriage Registrar.*

7. *In case of Native Christians, Marriage Registrar to ascertain that the notice and certificate are understood, and to translate and explain same.*

8, 9, 10. *If marriage forbidden, same to be noted by Marriage Registrar on Certificate, and such note to be a protest under* 14 *and* 15 *V. C.* 40 *S.* 7, *and* (9), *if Registrar is not satisfied that person forbidding is authorised by law to forbid, Registrar may obtain opinion of Supreme Court or Zillah Judge, and in what manner, or opinion of G. G. in C. if the case occurs in a territory of a native prince, &c. and the protest not to avail, if the said Court, Judge or G. G. in C. decides against it and* (10) *if the case occurs in native state, either of the parties may apply to the G. G. in C.*

11. *Marriages under this Act to be solemnized between* 6 *a. m. and* 7 *p. m.*

12. *In case of marriages of Native Christians, not understanding the English language, the declarations to be translated to them.*

13. *In suit concerning the validity of a marriage under this Act, no proof to be required of the formal Acts being performed according to Act.*

14. *Makes it felony for Marriage Registrar to improperly issue certificate for marriage more than 3 months after notice of marriage or for marriage of person under 21 years of age, or after marriage shall have been lawfully forbidden, and makes it same offence for any person to solemnize marriage in such cases.*

15. *Marriage Registrars in native states to transmit certificates to Secretary of Government.*

16. *Imposes the penalties of perjury on persons making false oath or declaration or signing false notice or certificate or forbidding a marriage under a false representation as to his title.*

17. *Prosecutions under this Act to be commenced within two years after offence committed.*

18. *G. G. in C. may appoint Marriage Registrar in native states, and prescribe what fees such Registrars may receive.*

19. *Empowers the Government of each Presidency to appoint a salary for Registrars not exceeding 50 rupees per month.*

20. *Magistrate of district to act as Marriage Registrar in case of death, absence, &c. of latter.*

21. *Requires Registrars to allow searches to be made at reasonable times in Register book on payment of specified fees.*

22. *Makes it felony to destroy or injure Register book or counterfoil of certificates or to falsely make, &c. such book, &c. or to make false entries, &c. or to give false certificates.*

23. *Provides for correction of errors in the Registry book within one month afterwards.*

24. *This Act to extend only to marriages under it and not to any other marriages.*

25. *Petitions under 14 and 15 V. C. 40 S. 5 may be on unstamped paper.*

26. *Act to take effect from 1st February, 1852.*

Schedule A. notice of marriage, B. Registrar's certificate.

An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, entituled "An Act for Marriages in India."

Whereas by an Act passed in the Session of Parliament holden in the Fourteenth and Fifteenth years of the reign of Her present Majesty, entituled, "An Act for Marriages in India," it was enacted (among other things) that it should be lawful for the Governor General of India in Council from time to time, by laws and Regulations, (not inconsistent with the provisions of the said Act of Parliament,) to be made in the manner, and subject to the Provisions by law required in respect of laws and Regulations made by the said Governor General of India in Council, to provide for the inspection and publication of

Notices of Marriage given under the said Act of Parliament, for the Custody and Protection from Injury of Marriage Register Books, for appeals from and references in case of doubt by the Marriage Registrars in relation to Marriages forbidden or Protests entered under the said Act of Parliament, for fixing the hours between which Marriages might be solemnized under the said Act of Parliament, for appointing the Officers to whom Certificates were to be transmitted by the Marriage Registrars, and generally for giving effect to the provisions of the said Act of Parliament, It is hereby enacted as follows:

Form of Notice and length of Residence necessary.

I. In every case of Marriage intended to be solemnized in India, after the first day of February next, under the provisions of the said Act of Parliament, one of the parties shall give Notice in writing, in the form of Schedule (A.) to this Act annexed, or to the like effect, to any Marriage Registrar of the District within which the parties shall have dwelt for not less than five days, then next preceding, or, if the parties dwell in different Districts, shall give the like Notice to a Marriage Registrar of each District, and shall state therein the name, and surname, and the profession, or condition of each of the parties intending Marriage, the dwelling place of each of them, and the time, not being less than five days, during which each has dwelt therein, and the Church, Chapel, or other building in which the Marriage is to be solemnized; provided that if either party shall have dwelt in the place stated in the Notice during more than one Calendar month, it may be stated therein that he or she hath dwelt there one month and upwards.

Inspection of Notices.

II. The Marriage Registrar shall file all such Notices, and keep them with the Records of his Office, and shall also forthwith enter a true copy of all such Notices fairly into a book, to be for that purpose furnished to him by the Government, to be called the "Marriage Notice Book," and the Marriage Notice Book shall be open, at all reasonable times, without Fee, to all persons desirous of inspecting the same.

Publication of Notices.

III. The Marriage Registrars, or Registrar of all Districts in the British Territories in India, shall respectively publish all such Notices of Marriage

given in their respective Districts by causing a copy of such Notices to be affixed in some conspicuous place in their respective offices, or, where such Registrars are Ministers of the Christian Religion, ordained or otherwise set apart to the Ministry of the Christian Religion, such Notices shall be affixed in some conspicuous place in the Church or Chapel or place of worship in which such Ministers respectively officiate. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the Notice of such Marriage, send, or cause to be sent, by the Post or otherwise, a copy of such Notice to all the other Marriage Registrars (if any) in the same District, who shall likewise affix the same in some conspicuous place in their own offices or Chapels as aforesaid.

Suspension of Certificate in the case of Minors.

IV. Where by the oath or declaration required by the sixth Section of the said Act of Parliament, it appears that one of the parties intending Marriage (not being a widow or widower,) is under twenty-one years of age, the Marriage Registrar shall not issue his Certificate under the porvisions of the second Section of the said Act of Parliament until the expiration of fourteen days after the entry of such Notice of Marriage.

Supreme Court may order Registrar to issue his Certificate in less than fourteen days.

V. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, and both parties intendiug Marriage are at the time resident in any of the Towns of Calcutta, Madras, or Bombay, and are desirous of being married in less than fourteen days after the entry of such Notice as aforesaid, it shall be competent for both parties intending Marriage to apply by petition to the Supreme Court of such Town, or any Judge thereof, for an order upon the Marriage Registrar to whom the Notice of Marriage has been given, directing him to issue his Certificate at some time before the expiration of the said fourteen days required by Section IV. of this Act. And it shall be competent to the said Supreme Court, or any Judge thereof, on sufficient cause being shown, in their or his discretion, to make an order upon such Marriage Registrar, directing him to issue his Cer-

tificate, at any time to be mentioned in the said order, before the expiration of the said fourteen days required by Section IV.; and the said Marriage Registrar, on receipt of the said order, shall proceed to issue his Certificate in accordance therewith.

Form of Certificate

VI. The Certificate to be issued by the Marriage Registrar, under the provisions of the second Section of the said Act of Parliament, may be in the form of Schedule B. to this Act annexed, or to the like effect, and the Government of each Presidency or Place shall furnish to every Marriage Registrar, a sufficient number of Forms of Certificate,

Notice and Certificate to be translated to Native Christians.

VII. When any Native Christain about to be married, applies for or tenders a Notice of Marriage, or applies for a Certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and if he does not, the said Marriage Registrar shall translate such Notice or Certificate, or both of them, as the case may be, or shall cause the same to be translated to such Native Christian, in the language of such Native Christian, or the said Marriage Registrar shall otherwise ascertain whether such Native Christian is cognizant of the purport and effect of the said Notice and Certificate.

How issue of Certificate may be forbidden.

VIII. Any person authorized in that behalf may forbid the issue of the Marriage Registrar's Certificate, by writing, at any time before the issue of such Certificate, the word "forbidden" opposite to the Entry of the Notice of such intended Marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her character, in respect of either of the parties, by reasón of which he or she is so authorized, and the said word "forbidden," so written and subscribed as aforesaid, shall be deemed a protest, within the meaning of the seventh Section of the said Act of Parliament.

References by the Registrars in cases of doubt.

IX. In all cases where a Marriage Registrar, acting under the provisions of the fourth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is authorized by law so to do, the said Marriage

Registrar shall apply by petition, which may in all cases be on unstamped paper, where the district of such Registrar is within any of the Towns of Calcutta, Madras, and Bombay, to the Supreme Court of Judicature in the Presidency or place within which such district is comprised, or if such district be not within any of the said Towns, then to the Judge of the Zillah or District within which the same is comprised, and the said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same, and the said Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall be empowered to examine into the allegations of the Petition and the circumstances of the case in a summary way, and if upon such examination it shall appear that the person forbidding the issue of such Certificate is not authorized by law so to do, such Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall declare that the person forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage as if the issue of such Certificate had not been forbidden by such person. And in all cases where a Marriage Registrar, appointed to act within the Territories of any Native Prince or State in alliance with the East India Company acting under the provisions of the sixth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is not authorized by law so to do, the said Marriage Registrar shall transmit a statement of all the circumstances of the case, together with all documents and papers relating thereto, to the Governor General of India in Council, and if it shall appear to the said Governor General of India in Council that the person forbidding the issue of such Certificate is not authorized by law so to do, the said Governor General of India in Council shall declare that the party forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage, as if the issue of such Certificate had not been forbidden by such person.

X. In all cases whatsoever where a Marriage Registrar resident in the Territories of any Native Prince or State in alliance with the East India Company has refused to issue his Certificate, it shall be lawful for either of the parties intending Marriage to apply by Petition to the Governor General of India in Council, and the said Governor General of India in Council shall be empowered to examine the allegations of the Petition in a summary way, and shall decide thereon, and decision of the said Governor General of India in Council shall be final, and the Marriage Registrar, to whom the application was originally made, shall proceed in accordance therewith.

Appeal where Registrar in Allied Native State refuses Certificate.

XI. Every Marriage solemenized under the provisions of the said Act of Parliament shall be so solemnized between the hours of six in the morning and seven in evening.

Hours for Marriages

XII. When any Native Christian is married under the provisions of the said Act of Parliament, the party solemnizing the said Marriage shall ascertain whether such Native Christian understands the English language, and if he does not, the party solemnizing the said Marriage shall, at the time of the solemnization thereof, translate, or cause to be translated, to such Native Christian, in the language of such Native Christian, both the declarations made at such Marriage in pursuance of Section IX. of the said Act of Parliament.

Declarations made at the Marriage to be translated to Native Christians.

XIII. After any Marriage has been solemnized under the said Act of Parliament, it shall not be necessary, in support of such Marriage, to give any proof in respect of the Notice of Marriage, or the Certificate, or the translation thereof respectively, or in respect of the hours between which any Marriage may be solemnized, or in respect to the said translations of the said declarations in Section IX. of the said Act of Parliament contained, nor shall any evidence be given to prove the contrary in any suit touching the validity of such Marriage.

Proof as to Notice, Certificate or Hours of Marriage, &c, not necessary to establish Marriage.

XIV. Every Marriage Registrar who shall knowingly and wilfully issue any Certificate for Marriage after the expiration of three Calendar months

Penalties.

after the Notice shall have been entered by him as aforesaid, or who shall knowingly and wilfully issue, without the order of a competent Court authorizing him so to do, any Certificate for Marriage where one of the parties intending Marriage (not being a widower or widow) is under twenty-one years of age before the expiration of fourteen days after the entry of such Notice, or any Certificate the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue thereof, shall be guilty of felony. And every person who shall knowingly and wilfully solemnize any Marriage under the provisions of the said Act of Parliament in the absence of a Registrar of the District in which such Marriage is solemnized, or who shall knowingly and wilfully solemnize any Marriage where one of the parties to such Marriage (not being a widower or widow) is under twenty-one years of age within fourteen days after the entry of the Notice of Marriage, no order for the issue of a Certificate in less than fourteen days having been made by a competent Court, shall be guilty of felony.

Certificates of Marriages in Allied Native States to be transmitted to Secretary, &c.

XV. The Marriage Registrars in the Territories of any Native Prince or State in alliance with the East India Company, shall transmit the Certificates mentioned and referred to in the twelfth Section of the said Act of Parliament to the Secretary for the Foreign Department of the Government of India.

Punishment for making false oath or declaration.

XVI. Every person who shall knowingly and wilfully make any false oath or declaration, or sign any false Notice or Certificate, required by the said Act of Parliament or this Act, for the purpose of procuring any Marriage, and every person who shall forbid the issue of a Marriage Registrar's Certificate, by falsely representing himself or herself to be a person whose consent to such Marriage is required by law, knowing such representation to be false, shall, on conviction, suffer the penalties of Perjury.

Limitation of Prosecution.

XVII. Every prosecution under this Act shall be commenced within the space of two years after the offence committed.

XVIII. The Governor General of India in Council may

Appointment of Registrars in Allied Native States, and as to their fees.

appoint any Covenanted or Uncovenanted Servant of the Company, being a Christian, or any Minister of the Christian religion, ordained, or otherwise set apart to the Ministry of the Christian religion, according to the usage of the persuasion to which he may belong, to be a Marriage Registrar in any District, to be assigned by the Governor General of India in Council in any place within the Territories of any Native Prince or State in alliance with the East India Company. And the said Marriage Registrar shall be entitled to receive the following fees; that is to say, for receiving each Notice of Marriage, one rupee, for publishing each Notice of Marriage, two rupees, for the issuing of each Certificate, five rupees, for every Marriage forbidden or Protest entered, ten rupees, and for registering each Marriage, three rupees, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury as in the said Act of Parliament mentioned. Provided always, that in any case in which it shall appear to the satisfaction of the Marriage Registrar, that the parties intending Marriage, or married, under the provisions of the said Act of Parliament, are in indigent circumstances, it shall and may be lawful for the said Marriage Registrar, in his discretion, to remit some part, but not more than three-fourths, of the said fees respectively, and in each and every such case of remission of fees, the Marriage Registrar shall report the circumstances thereof, and the grounds on which the remission is made, for the information of the Governor General of India in Council.

Salaries of Registrars.

XIX. It shall be lawful for the Government of each Presidency or Place to pay any one Marriage Registrar of Calcutta, Madras and Bombay, or of any other District where a considerable number of persons likely to avail themselves of this Act are resident, such salary as they shall think fit, not exceeding the sum of Co.'s Rs. fifty per month.

Provision in case of illness, &c., of Marriage Registrar.

XX. When there is only one Marriage Registrar in a District, and such Registrar is absent from such District, or ill, or in case of the death of the only Marriage Registrar in a District, or of

any temporary vacancy in such office, the Magistrate of such District shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy as aforesaid.

Searches may be made and Certificates given.

XXI. Every Marriage Registrar, or other person who shall have the custody for the time being of the Register of Marriages under this Act, shall at all reasonable times allow searches to be made of any Register Book in his custody, and shall give a copy, certified under his hand, of any entry or entries in the same, on the payment of the fees hereinafter mentioned, (that is to say,) for every search extending over a period of not more than one year, the sum of one rupee, and four annas additional for evey additional year, and the sum of one rupee for every single Certificate, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury.

Penalty for destroying or falsifying Register Book, &c.

XXII. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or the counterfoil Certificates thereof, or any part or certified copy thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of such Register Book, or of such counterfoil Certificates, or of certified copies thereof, or shall wilfully insert or cause to be inserted, in any Register Book, or counterfoil copy or certified copy thereof, any false entry of any Marriage, or shall wilfully give any false Certificate, or shall certify any writing to be a copy or extract of any Register Book or counterfoil copy thereof, knowing the same Register Book or counterfoil copy to be false in any part thereof, shall be guilty of felony.

Accidental errors may be corrected.

XXIII. Any person charged with the duty of registering any Marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one calendar month next after the discovery of such error, in the presence of the parties married, or, in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case,

by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and he shall make the like marginal entry, attested in the like manner, in the counterfoil Certificate thereof, to be made by him as in the said Act of Parliament mentioned, and in case such counterfoil Certificate shall have been already transmitted to the Secretary of Government of the Presidency or Place within which he resides, he shall make and transmit in like manner a separate counterfoil Certificate of the original erroneous entry, and of the marginal correction therein made.

Certain Registers of Marriage may be kept as heretofore.

XXIV. Nothing in this Act contained shall be construed to extend to the Registration of Marriages which may be solemnized in India by persons in Holy Orders, or under the provisions of the Act of the 58th year of King George the Third, Chapter 84, or to the Registration of any Marriage solemnized between any two persons professing the Jewish religion, and nothing herein contained, shall affect the right of any Officiating Minister to receive the fees now usually paid for the performance or registration of any Marriage.

Petitions to be on unstamped paper.

XXV. All petitions presented in pursuance of Section V. of the said Act of Parliament, may be so presented on unstamped paper.

Commencement of Act

XXVI. This Act shall commence and take effect from and after the first day of February 1852.

SCHEDULE (A.)

NOTICE OF MARRIAGE.

To Mr. John Cox, a Registrar of the District of *Calcutta* in *Bengal*.

I hereby give you Notice, that a Marriage is intended to be had, within

three Calendar Months from the date hereof between me and the other party herein named and described.

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which Marriage is to be solemnized.	District in which the other Party resides, when the Parties dwell in different Districts.
James Smith,...	*Widower,*	*Carpenter,*	*Of Full Age.*	*16, Clive Street.*	*23 Days.*	*Union Chapel, Dhurrumtollah.*	
Martha Green,	*Spinster.*	.....	*Minor.*	*20, Hastings' Street,*	*More than a Month,*		

Witness my Hand this *Sixth* Day of *May, One Thousand Eight Hundred and Fifty-two.*

(Signed) *James Smith.*

(The *Italics* in this Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

SCHEDULE (B.)

REGISTRAR'S CERTIFICATE.

I, *John Cox*, a Registrar of the District of *Calcutta* in *Bengal*, do hereby Certify, that on the *6th* day of *May*, Notice was duly entered in my Marriage Notice Book of the said District of the Marrage intended between the parties therein named and described, delivered under the Hand of *James Smith* one of the Parties, (that is to say,)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which the Marriage is to be solemnized.	District in which the other Party dwells when the Parties dwell in different Districts.
James Smith,...	*Widower,*	*Carpenter,*	*Of Full Age.*	*16, Clive Street,*	*23 Days,*	*Union Chapel, Dhurrumtollah.*	
Martha Green,	*Spinster,*	.....	*Minor,*	*20, Hastings' Street,*	*More than a Month,*		

Date of Notice entered *6th May* 1852.
Date of Certificate given *20th May* 1852.

The Issue of this Certificate has not been forbidden by any Person authorized to forbid the issue thereof.

Witness my Hand this *Twentieth* Day of *May, One Thousand Eight Hundred and Fifty-two.*

(Signed) *John Cox*, Registrar.

This Certificate will be void unless the Marriage is solemnized on or before the *6th* day of *August* 1852.

(The *Italics* in this Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

HORSBURGH LIGHT-HOUSE.

ACT No. VI. OF 1852.

[*Passed on the 30th January*, 1852.

1. *Vests the Light-house on Pedra Branca in the E. I. Co.*

2, 3, 12. *Ships of above* 50 *tons arriving at Singapore to pay a toll, but not more than once every six months; except* (3) *Ships of War of any Nation, and* (12) *Ships only passing through the Straits.*

4, 5, 6. *Vests management of Light-house in Governor of Straits settlements: who* (5) *may appoint Collector of tolls and* (6) *shall keep up light out of funds so raised.*

7, 8, 9. *Toll to become due on arrival of vessel and after demand and non-payment for two days may be levied under warrant on Ship or Furniture: and* (8) *no Ship shall have Port-clearance without certificate of payment of toll; and* (9) *Collector may also recover the toll by entering a suit against the owner or master of Ship, &c.*

10. *For purpose of ascertaining the Tonnage of vessels, the Collector may require production of the register, &c.*

11. *Surplus tolls from the Horsburgh light to be applied to erection of other lights or beacons in the Straits.*

12. *See ante.*

13. *Interprets the word Ship, &c.*

An Act for defraying the Cost of a Light-House on Pedra Branca.

Whereas it has been deemed expedient, for the safety and guidance of Ships navigating the China Seas, to build a Light-House on the Island Rock called Pedra Branca, situated at the Eastern entrance of the Staits of Singapore; And whereas certain sums of money were subscribed by private individuals for

that purpose, but the same were insufficient to defray the expense of Building such Light-House; And whereas the East India Company agreed to build such Light-House, and to advance certain sums of money to complete the same, on condition that the said sums of money were repaid to them by the levy of a toll on Ships and other square-rigged Vessels entering the harbour of Singapore; And whereas the said Light-House has been built by the East India Company, and it is desirable that the expense of building the same, and of maintaining a Light thereon, should be defrayed out of the monies arising from such toll; And whereas it may hereafter be deemed expedient to establish other Lights or beacons in the Straits of Mallacca, or elsewhere near thereto, It is enacted as follows:

I. The Light-House on Pedra Branca aforesaid shall be called "The Horsburgh Light-House," and the said Light-House, and the appurtenances thereunto belonging or occupied for the purposes thereof, and all the fixtures, apparatus, and furniture belonging thereto, shall become the property of, and absolutely vest in, the East India Compay and their successors.

II. From the first day of March 1852, every Ship, being of the burden of fifty tons and upwards, which shall arrive at, or enter the harbour or roadstead of Singapore, from any part of the world, shall pay a toll of three cents of a dollar per ton for every ton of her registered burden or tonnage; Provided always that no Ship shall pay such toll more than once in every six calendar months.

III. All Ships of War belonging to Her Britannic Majesty, or any Foreign Government or State, and all armed Ships belonging to the East India Company, shall be exempt from the payment of such toll.

IV. The mangement and controul of the said "Horsburgh Light-House," and of the keeper thereof, and of everything relating thereto, is hereby vested in the Governor of the Straits Settlements.

V. The said Governor may appoint any person he may think fit, to be a Collector of the tolls, payable under this Act.

VI. Out of the funds raised by such tolls, an efficient Light shall be constantly kept up and exhibited during the night-time in and from the said Light-House, and the surplus monies aris-

ing from such tolls, after deducting the expense of maintaining such Light as aforesaid, shall, from time to time, be paid over to the said East India Company, in liquidation of the monies they have advanced towards the erection and completion of the said Light-House, and the apparatus and furniture thereof.

VII. The toll to be levied under this Act shall become due and payable immediately on the arrival of every Ship liable thereto within the harbour or roadstead of Singapore; and, immediately on the arrival of any such Ship within the said harbour or roadstead, the Collector appointed under this Act shall demand, or cause to be demanded, from the Master or other person in command of such Ship, payment of the toll of three cents of a doller per ton for every ton of the registered burden or tonnage of such Ship, and if the same be not paid within two days after such demand made as aforesaid, or if, at any time after the arrival of such Ship as aforesaid, the said Collector shall have cause to suspect, or believe, that such Ship will immediately leave the said harbour or roadstead without paying such toll, it shall be lawful for any Justice of the Peace, upon an affidavit to that effect being made before him on oath by such Collector (which oath the said Justice is hereby authorized to administer), to issue his Warrant under his hand, directed to any Peace Officer of Singapore aforesaid, to enter on board such Ship and to seize and carry away any of the Goods, Merchandize, Guns, Tackle, Apparel or Furniture of or belonging to or on board such Ship, and to keep the same for the space of three days then next, unless the said toll shall be in the mean time paid; and in case the amount of the toll due by such Ship shall not before the expiration of such three days have been paid, then the said Collector may cause the said Goods, Merchandize, Guns, Tackle, Apparel or Furniture so seized to be sold, and out of the proceeds of such sale shall pay the amount of the said toll to which such Ship shall be liable, together with the reasonable charges of the seizure, detention, and sale, rendering to the Master or Owner, or other person having the command of such Ship, the overplus (if any) on demand.

VIII. The officer of Government whose duty it shall be to grant a Port-clearance for any Ship clearing out of or leaving

the port of Singapore aforesaid, shall refuse to grant such Port-clearance to any Ship until the Owner, Agent, Master or other person in command of such Ship shall produce a certificate from the Collector appointed under this Act that such Ship has paid the amount of toll to which she is liable under this Act.

IX. Notwithstanding anything in this Act contained, the said Collector appointed under this Act, may sue for and recover the amount of any tolls payable to him under this Act, by action of debt or suit in Equity in any of Her Majesty's Courts in India, against the Owner, or Master, or other person who, at the time of default made in the payment of such toll, owned or had the command of any Ship liable thereto.

X. In order to ascertain the exact burden or tonnage of any Ship liable to pay the toll leviable under this Act, the Collector appointed under this Act may apply to any Justice of the Peace to require, and such Justice of the Peace shall thereupon summon and require the Owner, Master, or other person in command of such Ship, or any person having possession of the same, to produce the register of such Ship for the inspection of such Justice, and upon the refusal or neglect of any such Owner, Master, or person to produce such register, it shall be lawful for such Justice to adjuge such Owner, Master, or person to pay a fine not exceeding one hundred dollars, and in default of payment, to be imprisoned in Her Majesty's Gaol for any period not exceeding two calendar months.

XI. When and so soon as the monies to be advanced by the said East India Company towards the erection and completion of the said Light-House shall have been fully repaid and liquidated in manner herein provided for, it shall be competent for the Governor of the Straits Settlements to build, or cause to be built, one or more other Lights or Beacons for the safety and guidance of Ships in such part or parts of the Straits of Malacca, or near thereto, as shall be deemed expedient, and the cost thereof, and of maintaining the same, and of keeping up and exhibiting a Light or Lights therefrom, shall be defrayed out of the surplus monies arising from the toll payable under this Act, after defraying the current expenses of maintaining the "Horsburgh Light-House" aforesaid.

XII. Nothing in this Act contained shall be construed to

authorize the levy of a toll upon any Ship passing through the Straits of Singapore and not entering the said harbour or roadstead of Singapore aforesaid.

XIII. The word "Ship" throughout this Act mentioned, shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Junk, Steam-Boat, and every other Vessel, as well as a Ship; and words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number, and words importing the masculine gender shall extend to females, unless there be something in the subject or context repugnant to such construction.

MADRAS.—SALT REVENUE.

ACT No. VII. OF 1852.

[*Passed on the 6th February*, 1852.

1, 2, 3. *Empowers Head Officers of District Police to hear and determine offences against Salt-laws in cases in which value of Salt in question shall not exceed 5 rupees, and may inflict 10 days imprisonment or fine, &c. or (2) if he deems such punishment insufficient may report case to Magistrate for orders, &c. and if (3) no orders are received from the Magistrate in 30 days, the offenders shall be discharged.*

4. *Heads of Police to report to Magistrates their proceedings under this Act.*

An Act for amending Act XVII. of 1840 as to penalties for breaches of the Salt Laws in the Madras Presidency.

Whereas inconvenience has been experienced in consequence of the Head Officers of District Police in the Madras Presidency being prohibited from taking cognizance of petty offences against the Salt Laws, It is enacted as follows:

I. Heads of District Police may hear and determine cases of offences against the Salt Laws, when the value of the Salt in question shall not exceed five Rupees, and may inflict punishment not exceeding ten days' imprisonment with labour, or a fine not exceeding three Rupees, commutable, if not paid, to imprisonment with labour for a period not exceeding ten days.

II. Whenever a Head Officer of District Police shall be of opinion that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the

case to the Magistrate for his final orders, stating precisely the nature and extent of the punishment he recommends to be inflicted; and the Magistrate shall, at his discretion, issue his orders in writing to the Head Officer of Police, to inflict such punishment as the Magistrate may deem sufficient, not exceeding that declared in Act XVII. of 1840, recording his reasons, if his opinion is at variance with the opinion of the Head Officer of Police; or the said Magistrate shall order the Head Officer of Police to forward the parties and witnesses to him for further investigation.

III. If at the expiration of thirty days from the date and day of despatch of any reference from a Head Officer of District Police to a Magistrate, no answer or order of the Magistrate shall have been received by the Head Officer of Police, then the said Head Officer shall release the offenders, and the confinement which they have so had shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

IV. Heads of District Police shall report to the Magistrates, in the manner prescribed by Clause 2, Section XXXIII., Regulation XI. of 1816, of the Madras Code, all punishments which they inflict by the authority vested in them by this Act.

SHERIFF'S FEES.

ACT No. VIII. OF 1852.

[*Passed on the 6th February*, 1852.

1, 2. *Sudder Courts in each Presidency to establish tables of fees to be taken by Sheriff for execution of Mofussil process. Such fees to be prepaid on application for process:* (2) *such table to be approved by Governor of Presidency.*

3, 4, 5. *Fees paid into Court under this Act to be accounted for and paid into local treasury: and* (4) *Government to pay over the same to the treasury half-yearly or* (5) *may compound with Sheriff for same.*

6, 7. *Sheriff to receive 2½ per cent. on levy over and above aforesaid fees and* (7) *in case of execution against the person to have such fee as may be fixed by Sudder.*

8. *Repeals action of debt for escape in execution and gives action for damages.*

An Act for remunerating the Sheriffs of Calcutta, Madras, and Bombay, for the execution of Mofussil Process under Act XXIII. of 1840.

For making better provision for the Sheriffs of Calcutta, Madras, and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, It is enacted as follows:

I. The several Sudder Courts of the Presidency of Fort William in Bengal, and the Sudder Courts of the Madras and Bombay Presidencies respectively, shall make, and from time to time amend, a Table of reasonable fees, to be taken on account of the execution by the Sheriff in such Presidency of any legal process issued by any Court, Judge, or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras, and Bombay, and of the sums to be allowed for costs of advertisements or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be payable by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

II. The said Table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North-Western Provinces of the said Presidency to the Lieutenant Governor of those Provinces, and by the Sudder Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval; and the said Table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor, Lieutenant Governor, or Governor in Council, as the case may be.

III. Every such Court, Judge, and Magistrate, issuing process as aforesaid, shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local Treasury.

IV. The Government of each of the Presidencies and Provinces aforesaid shall twice in each year account for and pay over to the Sheriff, for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving

and keeping account thereof, and remitting the nett proceeds thereof to Calcutta, Madras, or Bombay, as the case may be; or, where the amount has accrued in the shrievalty of more than one Sheriff, shall apportion the sum paid accordingly between the Sheriff for the time being, and the then late Sheriff.

V. The said Governments respectively may compound with the Sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

VI. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of Two Rupees Eight Annas for each Hundred Rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge, or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.

VII. No fee, estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras, or Bombay, or any of their Bailiffs, for taking the body of any person in execution on any process issued by any Court, Judge, or Magistrate out of the local jurisdiction of the said Supreme Courts respectively; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sudder Court as aforesaid.

VIII. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

BENGAL, BITHOOR.—BAJEE ROW.

ACT No. IX. OF 1852.

[*Passed on the 6th February*, 1852.

Recites the death of Maharajah Bajee Row.

1, 2, 3, 4. *Repeals R.* 1, 1832 *and* (2) *places Bajee Row's jagheer within the district of Cawnpore and* (3) *under the ordinary jurisdictions, civil and criminal: but* (4) *not so as to disturb antecedent final decrees or decisions.*

An Act to repeal regulation I. of 1832 of the Bengal Code.

Whereas a tract of land situated near the town of Bithoor, in the district of Cawnpore, was granted by the British Government as a jagheer during pleasure to the Maharajah Bajee Row Bahadoor; and whereas by Regulation I. of 1832 of the Bengal Code, it was (among other things) enacted, that from and after the passing of that Regulation, the jurisdiction of the Courts of Civil and Criminal Judicature, and the operation of the General Regulations should not extend to the tract of land aforesaid, and that the said Maharajah should exercise the Civil and Criminal administration of the jagheer, subject to such control as therein mentioned; and whereas the said Maharajah Bajee Row died on the 28th day of January 1851, and it is now expedient to repeal the said Regulation I. of 1832; It is declared and enacted as follows:

I. Regulation I. of 1832, of the Bengal Code, is hereby repealed.

II. The said tract of land being part of the district of Cawnpore, all Laws and Regulations, now in force within such district, shall be in force in the said tract of land.

III. All cases, Civil or Criminal, in which the cause of action arose, or the offence was committed within the said tract of land before the passing of this Act, may be tried and determined by the Courts of the said district of Cawnpore, and the General Laws and Regulations now in force in such district may be applied and administered by the said Courts in the trial and determination of such cases; but if in any case it shall appear that the application of the said Laws and Regulations would operate unjustly if applied to the trial and determination

of such case, it shall be lawful for such Courts to try and determine the same according to equity and good conscience.

IV. Provided always, that no Court shall try or determine any case, Civil or Criminal, with respect to which a final decision may have been pronounced previous to the said 28th day of January 1851, by any Court or person within the said tract of land, having at the time of such decision, lawful power and authority to pronounce it.

CALCUTTA.—MUNICIPAL COMMISSIONERS.

ACT No. X. OF 1852.

[*Passed on the 6th February*, 1852.

1, 2. *Repeals Act* 16, 1847 *and* (2) *the scheme for election of Commissioners and the rules made by them.*

3. *Divides Calcutta into Northern and Southern division, of defined limits, which may be altered by Governor of Bengal.*

4, 5. *Directs appointment of* 4 *Commissioners, two by the Governor, and one by each division of the town;* (5) *for one year from the* 1*st January in each year, or to continue till successors are appointed.*

6, 7, 8. *Owners of property taxed at* 10 *rupees per month and* (7) *occupiers paying* 70 *rupees per month for rent to have the right of voting,* (8) *in the division in which he has such qualification: and may vote in both divisions if he has the qualification in both: but not* 2 *votes in one division.*

9, 10, 11, 12. *Election to be under management of sheriff and his deputies and* (10) *to take place between* 1*st and* 20*th December and* (11) *in the Town Hall or such other place as sheriff may appoint, and* (12) *between hours of* 8 *and* 5 *o'clock.*

13. *Only persons qualified to vote to be eligible as Commissioners.*

14. *Candidates for election to give the notice to sheriff and leave with him certificate of qualification.*

15, 16. *Candidates to defray expense of election and deposit* 200 *rupees with sheriff to cover same: and* (16) *surplus of deposit to be returned.*

17. *Commissioners to prepare annually lists of owners and occupiers qualified to vote, which shall be open to public inspection.*

18, 19. *Secretary on written application of voter to give voting ticket and to keep a register of such voting tickets: and* (19) *such voting ticket to be conclusive evidence of right to vote at next election.*

20, 21, 22, 23. *Sheriff or deputies to attend at voting places with a closed voting box for each division: and* (21) *receive from voter the tickets and put same in voting box; and* (22) *may employ persons to identify voter: and* (23) *decision of sheriff to be conclusive as to right to vote.*

24, 25, 26. *Sheriff at close of the poll to count votes and declare on whom the election has fallen:* (25) *in case of an equality of votes Governor of Bengal to determine which shall be elected: and* (26) *sheriff to certify result of every election to the G. of B.*

27. *In case of vacancy in course of the year, the G. of B. to appoint to it a person qualified to be elected.*

28. *Repeals* 33 G. 3. C. 52 S. 138, *and transfers to commissioners under this Act all the power and duties thereby given to Justices of the Peace, as well as the power and duties conferred by any Act on Commissioners.*

29. ASSESSMENTS: *Justices to make a quarterly assessment on owners at rate of* 6¼ *per cent. or one anna per rupee on gross rental or estimated rental.*

30. *Commissioner appointed by Governor to be President, who shall have a casting vote; in his absence the commissioners to appoint a President; two commissioners necessary to constitute a meeting.*

31. *Commissioners to be paid salaries not exceeding* 250 *Rupees monthly out of local taxes.*

32. *Commissioners to appoint Secretary, Assessors, Collectors, Surveyors, Inspectors, Appraisers, Bailiffs and other necessary officers, with salaries, and removeable at pleasure, subject in case of the Secretary to the approval of the Governor.*

33. *All rates and taxes and penalties imposed prior to this Act under color of prior Acts to be paid or levied.*

34. *Owners of houses, &c. to pay assessments.*

35. *Where the ownership of house and of the land on which it is built is vested for the time being in different persons, such may be separately assessed in respect of his own interest.*

36. *Justices may omit from assessment tenements of very small value except where several belonging to one person they can be assessed together.*

37. *Houses, &c. vacant for* 60 *successive days in one quarter, the assessments thereof shall be remitted for such quarter, if specified notice is given.*

38. *First assessment under this Act to be for February, March and April* 1852, *and future assessments to be made prospectively.*

39, 41. *Assessments may be made by any Justice but must be confirmed at subsequent meeting of Justices, and shall be entered in books, which* (41) *shall be open to inspection.*

40. *Justices to give* 14 *days' notice of meeting to confirm assessment and persons objecting to it may appeal to such meeting, when Justices may confirm or amend assessment.*

41. *Ante* 39, 41.

42, 43, 44, 45. *Taxes to be due at the end of the quarter for which they are assessed: and* (43) *when due, bill thereof in form A. to be sent to person liable, and* (44) *when in arrear, may be demanded in form B. and if not paid, summons may be issued in form C.; and* (45) *Commissioners may adjudicate case on due day for hearing summons.*

46. *Justices or Commissioners may summon in form D. persons to give evidence*

of value of houses, &c and may examine such persons, who shall be liable to penalty not exceeding 100 *rupees for giving evasive answers, &c or refusing to answer, &c*

47 *Arrears of taxes and penalties may be recovered under distress warrant in form E against any goods in Calcutta of the debtor or on any goods on the premises.*

48, 49. *Distraining bailiff to make inventory and give notice in form F and* (49) *if warrant is not discharged goods may be appraised and sold.*

50 *Defaulters may also be sued for such arrears in Small Cause Court*

51. *If name of owner of premises is not known process may be directed to him by specified description and served on premises, &c*

52. *Distress not to be unlawful* ab initio *for any mere irregularity in previous proceeding.*

53. *Commissioners subject to approval of Governor of Bengal to make rules for regulating proceedings, &c.*

54. *Goods of owners may be distrained any where and names of owners need not be specified in assessment or any kind of process against them but description of premises shall be sufficient.*

55. *All goods on the premises of any person whatever may be distrained for rates and taxes, and owner of such goods, if occupier, may deduct amount from his rent and if not occupied may sue owner*

56 *On payment of fee of four annas every person entitled to have from Commissioner's Office Certificate of last payment of assessments.*

57 *Goods concealed in zenana seizable only by special order of Commissioners.*

58. *Wilful obstruction, &c given to officer in execution of duty, subject to penalty not exceeding* 50 *rupees.*

59. *Commissioners to sue and be sued in name of Secretary, but no execution to go against Secretary till six months after notice of final judgment, &c.*

60. *Secretary whether plaintiff or defendant to be a competent witness*

61. *No writ or process to be issued against any Commissioner or officer, &c. until after one month's notice of cause of action stating name, &c of attorney and at trial no evidence to be given of cause not mentioned in notice and every action to be brought within three months next after cause of action accrued, &c.*

62. *Neither Commissioners nor their Secretary or servants to be liable to any action, claim or demand in respect of any contract bonâ fide entered into by them or any of them or of any matter or thing done in execution of this Act.*

63, 64. *In every such action, defendant may plead general issue and give special matter in evidence and* (64) *Commissioners and their servants to have costs as between attorney and client, if successful*

65. *Defines the purposes to which taxes may be applied*

66 *Interpretation clause and* Schedules

For constituting Commissioners for the Improvement of the Town of Calcutta.

Whereas Act XVI. of 1847, for constituting Commissioners for the Improvement of the Town of Calcutta, has been found inconvenient and ineffectual for the intended purposes thereof, It is enacted as follows;

I. Act XVI. of 1847 is repealed, except as to anything done, or forborne to be done, under the said Act before the passing of this Act, but not so as to revive Act XX. of 1840. Provided always, that the taxes leviable under Act XVI. of 1847, on the owners or users of Carriages, Carts, and Horses may still be assessed and imposed on such owners or users for the last Quarter or Part of a Quarter previous to the passing of this Act; and all taxes and arrears of taxes, assessed and imposed on the owners or users of Carriages, Carts, and Horses under Act XVI. of 1847, and not collected at the time this Act comes into operation, may be levied and recovered as if the said Act XVI. of 1847 were not repealed.

II. The scheme of election agreed upon by the owners and occupiers of assessed houses, buildings, and lands in each division of the Town, and the rules made by the Commissioners, severally approved by the Deputy Governor of the Presidency of Fort William in Bengal and President of the Council of India in Council, in pursuance of the said Act, are rescinded and annulled. Provided always, that all taxes and arrears of taxes assessed and imposed on the owners or users of Carriages, Carts, and Horses under Act XVI. of 1847 and Section I. of this Act, and not collected at the time this Act comes into operation, may be levied and recovered as if the said Rules were not repealed.

III. For the purposes of this Act the Town of Calcutta shall be divided into two divisions, that is to say, a Northern and Southern Division, by a line passing from the river Hooghly at the old Fort Ghaut along the centre of Fairlie Place, Clive Street, the street on the Northern side of Tank Square, Loll Bazaar, Bow Bazaar, and Boitaconnah; or such other two divisions as the Governor of the Presidency of Fort William in Bengal, from time to time, may appoint; and whenever any such new division shall be made, the provisions of this Act, with respect to the divisons herein defined, shall be deemed to apply thenceforth to such new divisions.

IV. There shall be four Commissioners for executing the powers of this Act, who shall be styled the Commissioners for the Improvement of the Town of Calcutta, of whom two shall be appointed by the Governor of the Presidency of Fort William in Bengal, and two shall be elected as hereinafter provided that is to say, one for each division of the said Town.

V. The Commissioners shall enter upon their office on the First day of January in each year, and shall hold their office regularly for one year, or until their successors are duly constituted; and until the first constitution of Commissioners under this Act, the Commissioners now acting in the execution of the said Act XVI. of 1847, shall exercise the powers of this Act, and shall be deemed Commissioners under this Act.

VI. Every person is entitled to one vote in the election of a Commissioner under this Act who is the owner of a house, building, or ground in either division of the said Town, and is assessed at not less then ten rupees' tax in the whole for a quarter of a year, in respect of such house, building, or ground, and who, on or before the 20th day of November, in each year, has paid all such taxes due from him up to the last day of July, in the same year.

VII. Every person is entitled to one vote in the election of a Commissioner under this Act who is the occupier of any house, building, or ground in either division of the said Town, and who pays a monthly rent of not less than rupees seventy in respect of such house, building, or ground.

VIII. Each voter is entitled to vote in that division only in which he is assessed to the amount which constitutes his qualification; but any person who is assessed or pays rent to the qualifying amount in each division, may be entitled to vote in both. No person shall be entitled to two votes in any one division by reason of his being both an owner and occupier to the qualifying amounts respectively in such division.

IX. All elections under this Act shall be under the management of the Sheriff of Calcutta, who shall appoint a sufficient number of Deputies to help him in presiding thereat; and every Deputy, while so acting for the Sheriff, shall have the same powers and the duties as the Sheriff with respect to the division for which he is acting.

X. The elective Commissioners shall be chosen yearly, on a day between the First and Twentieth days of December, to be appointed in each year by the Sheriff of Calcutta, of which day, and also of the place of election, the Sheriff shall give notice by advertisement in the Calcutta Gazette, Fifteen days at least before the day of election.

XI. The place of election for each division of the Town shall be the Town Hall of Calcutta, or such other place as the Sheriff, with the sanction of the Governor of the Presidency of Fort William in Bengal, shall, from time to time, appoint.

XII. The voting shall begin at eight of the clock in the morning, and end at five of the clock in the afternoon of the appointed day.

XIII. Every person qualified to vote in the election, and none other, is qualified to be a candidate for election as a Commissioner.

XIV. Every candidate shall, ten days at least before the day of election, give notice thereof in writing to the Sheriff, naming the division for which he is a candidate, and shall at the same time produce to, and leave with, the Sheriff a certificate from the Secretary to the Commissioners that he is qualified to be a candidate, which certificate, the Secretary shall be bound to give without fee or charge, on personal application, to any person duly qualified.

XV. All expenses of the election of Commissioners, including the expense of advertising the time and place of election, shall be defrayed by the candidates; and every candidate shall, at the time when he produces to the Sheriff his certificate of qualification, deposit with the Sheriff the sum of two hundred rupees toward the expenses of the election, and in default thereof shall not be qualified to be elected.

XVI. If the whole amount so deposited shall not be spent by the Sheriff in such election, the residue shall be returned to the candidates in equal proportions; and if the whole amount so deposited is not enough to defray the expense of such election, the Sheriff shall be entitled to receive from each candidate his proportionate share of the surplus expense, and in default of payment may sue for and recover the same, as money spent on behalf of such candidate.

XVII. The Commissioners shall cause to be prepared, in each year, correct alphabetical lists of the owners qualified to vote in each division of the Town, and also an alphabetical list of the occupiers qualified to vote in each of the said divisions, who shall, on or before the First day of November in each year, apply to the Commissioners to have their names entered in such lists, and the said lists shall be open for inspection at the office of the said Commissioners, on or before the First day of December in each year, during all reasonable hours of the day, until the day of election, when the said lists, or copies thereof, shall be taken to the place of election for the use of the Sheriff and his Deputies.

XVIII. The Secretary to the Commissioners, on the written application of any person qualified to vote as aforesaid, signed by himself, specifying the division, street and number, or other description of every house, or building, or the land in respect of which the claim is made, and delivered to the Secretary on some day between the 1st and 30th day of November, both inclusive, —with, where the applicant is an owner, the receipted assessment bills, shewing that the applicant has paid the taxes required by this Act to qualify him to vote, or with, where the applicant is an occupier, the receipted rent bills, shewing that such occupier has paid the rent required by this Act to qualify him to vote,—shall give to such person a voting ticket, according to his qualification. The voting tickets shall be numbered and signed by the Secretary to the Commissioners, and shall be in one of the forms contained in the first Schedule annexed to this Act, or in such other form as shall be, from time to time, adopted by the Commissioners, with the approval of the Governor of the Presidency of Fort William in Bengal; the Secretary to the Commissioners shall keep a Register of such voting tickets, which shall specify the number of each voting ticket, the name of the voter, and the premises in respect of which such voting ticket is given, and the said Secretary, on the day of election, shall take the said Register to the place of election, for the use of the Sheriff and his Deputies,

XIX. The voting ticket shall be conclusive evidence that the person named therein is entitled to vote at the next election

of a Commissioner in the division for which the ticket is given, according to the tenor thereof.

XX. At the time and place appointed for the election, the Sheriff or his Deputies shall attend with two closed boxes, with openings in each box for the reception of voting tickets, and distinguished from each other, by having marked or painted legibly, in English and Bengallee characters, the word "Northern" on one box, and the word "Southern" on the other.

XXI. Every voter, having obtained his voting ticket in each division in which he is qualified to vote, and having written thereon the name of the candidate for whom he wishes to vote, and having signed the same, shall personally attend at the place of election, and shall deliver his voting ticket to the Sheriff, or one of his Deputies presiding at the election for that division, who on being satisfied of the identity of the person tendering the voting ticket with the person whose signature it bears, shall deposit such voting ticket in the box of the division.

XXII. The Secretary, Assessors, Collectors, and Collecting Sircars of the Commissioners, and, if required by any candidate, an agent appointed by writing under his hand on his behalf, shall attend at the place of election during the continuance thereof, for the purpose of assisting in identifying the persons who shall tender voting tickets.

XXIII. The decision of the Sheriff, or his Deputy, admitting or rejecting any disputed vote tendered at any election, shall be conclusive as to the reception of the vote.

XXIV. At the close of the poll for any division, the Sheriff or his Deputies, in the presence of the candidates, or such of them as choose to be present, or of scrutineers appointed in writing under their several hands, shall ascertain the number of votes given for each candidate in each division; and the Sheriff shall thereupon publicly declare the name of the candidate in each division for whom the greatest number of votes has been given in such division, and shall declare such candidate to be duly elected a Commissioner for the Improvement of the Town of Calcutta.

XXV. If two or more candidates at the head of the poll in any one division of the Town shall have the same number of votes, the Governor of the Presidency of Fort William in Ben-

gal shall appoint one of the candidates, having such equal number of votes, to be one of the elected Commissioners for the Improvement of the Town of Calcutta.

XXVI. The result of every election shall be certified by the Sheriff to the Governor of the Presidency of Fort William in Bengal, who will cause notice thereof to be given in the *Calcutta Gazette.*

XXVII. If any vacancy, from any cause whatever, happens before the month of December in any year among the Commissioners, the Governor of the Presidency of Fort William in Bengal shall appoint a person qualified to be elected to fill such vacancy, and the Commissioner appointed to fill such vacancy shall be a Commissioner as if he had been elected at the then last general election of Commissioners.

XXVIII. The 158th Section of the Act of Parliament passed in the 33rd year of the reign of King George the Third, and numbered Chapter 52, is hereby repealed, and the powers and duties which by the said Act were conferred and imposed on the Justices of the Peace within or for the Presidency of Fort William in Bengal, in regard to the collection, levying, and disbursement of the taxes thereby authorized to be assessed by them on the owners or occupiers of houses, buildings, and grounds, shall be exercised and performed by the said Commissioners, instead of the said Justices of the Peace; and the powers and duties by Act XXII. of 1847, or any other Act, conferred on or belonging to the Commissioners constituted under the said Act XVI. of 1847, and their Officers, shall be transferred to, and belong to the Commissioners constituted under this Act and their Officers respectively.

XXIX. The Justices of the Peace within and for the said Town of Calcutta shall make a quarterly assessment at the rate of six and one quarter per cent., or one anna in the Rupee, on the owners of houses, buildings, and grounds within the said Town, according to the gross monthly rental thereof, or on the gross monthly rental at which the same might, in the estimation of the said Justices reasonably be expected to let.

XXX. Of the two Commissioners yearly appointed by the Governor of the Presidency of Fort William in Bengal, one shall be President of the Commissioners. In the absence of the

President, such other Commissioner shall act as Chairman of the meetings of the Commissioners as shall be chosen by those present. On all questions on which the Commissioners present are equally divided in opinion, the President shall have a second or casting vote. No meeting of the Commissioners shall be held without twenty-four hours' notice being given to all the Commissioners, and two Commissioners shall be necessary to constitute a meeting.

XXXI. The Commissioners shall severally receive such monthly salaries, not exceeding two hundred and fifty rupees each, to be paid out of the taxes levied under the said Act of Parliament, and Act XVI. of 1847, and this Act, as the Governor of the Presidency of Fort William in Bengal, with the approval of the Governor General of India in Council, shall from time to time appoint.

XXXII. The Commissioners shall appoint a Secretary, subject to the approval of the Governor of the Presidency of Fort William in Bengal, and shall also appoint a sufficient number of Assessors, Collectors, Surveyors, Inspectors, Appraisers, Bailiffs, and such other Officers as they may deem necessary for assessing, collecting, or levying the taxes imposed on the owners or occupiers of houses, buildings, and grounds, under the authority of the said Act of Parliament, and of this Act, and also the taxes and penalties herein mentioned, and may appoint the same persons to act both as Assessors and Collectors, and may prescribe such rules, and take such security for the due execution of the duties of such Secretary and Officers as they may deem expedient; and the Secretary and Officers of the Commissioners shall receive such salaries, to be paid out of the said taxes, as the Commissioners from time to time may appoint, subject to the approval of the said Governor. The Secretary and every other Officer shall be removable at the pleasure of the Commissioners, subject, in the case of the Secretary, to the approval of the said Governor.

XXXIII. All rates and taxes assessed on the owners of houses, buildings, and grounds, and penalties imposed under the authority or colour of the said Act of Parliament, and Act XVI. of 1847, before this Act comes into operation, may be demanded, and if not duly paid, may be levied and recovered by the Com-

missioners acting under the authority of this Act, in the same manner, and by the same forms, or by forms to the like effect, as if they had been imposed under the authority of this Act.

XXXIV. The owners of houses, buildings, and grounds, within the said Towns, shall pay such sums of money as shall be assessed upon them by the said Justices according to the said rate of six and a quarter per cent., or one anna in the rupee.

XXXV. Where there is land wholly or partly covered with houses or buildings, which do not belong, or which belong only in remainder or reversion, to the owner of the land, and rent is covenanted to be paid to the owner of the land, wholly or partly irrespective of the value of the said houses or buildings, the said Justices may assess the owner of the land separately, in respect of the land, and the owners of the houses and buildings, according to their value, after deduction of the value of the land, in respect whereof the owner thereof is separately assessed.

XXXVI. The said Justices, in their discretion, may omit from their valuation and assessment any tenement of very small value, unless where there are many such belonging to the same owner, which can be conveniently valued and assessed together.

XXXVII. Where any house, building, or ground, within the said Town, has been vacant for sixty consecutive days in any quarter of a year, the rates for that quarter shall be remitted, provided that the owner of such house, building, or land, shall have given notice in writing of the vacancy thereof, to the Secretary of the Commissioners, within seven days next after the day on which it becomes vacant; and if such notice of vacancy be not given within the said seven days, the said rates shall be remitted from the day on which the notice may be delivered to the Secretary.

XXXVIII. The first assessment to be made under this Act shall be made on or after the Twelfth day of February 1852, for the months of February, March, and April 1852, and when made, shall be taken to supersede and annul any previous assessment made by the Justices for the same period or any portion thereof; and every following assessment shall in like manner be made prospectively at the commencement of the quarter of a year in which it is made.

XXXIX. The assessment of the taxes specified in this Act

shall be made by the said Justices or any of them, but shall in every case require to be confirmed at a subsequent meeting of the said Justices, and the said Justices shall cause such assessments, when made and confirmed, to be entered in books to be kept in their office, and the entries for such assessments in the said books authenticated by the signatures of the Justices, or any two of them, shall be conclusive evidence of the several assessments therein specified.

XL. The Justices shall give at least fourteen days' notice, by advertisement in the *Calcutta Gazette*, of the day and hour when they will meet in their office, for the purpose of revising and confirming the said assessment; and every person who deems himself aggrieved in any respect by the said assessment, and is desirous of appealing against the same, must attend such meeting; and the Justices may adjourn such meeting, if necessary, from day to day; and, after hearing and determining all objections to the assessment, may make such ammendments therein as to them may appear just, and finally confirm the same as so amended.

XLI. The books containing the proposed assessment shall be in the office of the Justices during the said period of fourteen days, or more, open at all reasonable times to the inspection of all persons assessed therein.

XLII. The taxes specified in this Act shall be due and payable from and after the end of the quarter of a year, or other period for which they are imposed.

XLIII. When the taxes specified in this Act shall be due and payable, or as soon after as convenient, the said Commissioners shall send, or cause to be sent, to the persons severally liable to pay any of such taxes, a statement or bill in the form (A,) contained in the second Schedule annexed to this Act, or to the like effect, of the sums due from such persons respectively in respect of the said taxes.

XLIV. When any person shall be in arrear of the payment of the said taxes specified in this Act, the said Commissioners, or any one of them, or their Officer duly authorized by them, may issue, or cause to be issued and served upon such person, a Notice of Demand in the form (B,) contained in the second Schedule annexed to this Act, or to the like effect: and if he

shall not, within five days from the service of such Notice of Demand, pay the arrear due from him, according to the tenor of such Notice of Demand, the said Commissioners, or any one of them, or their Officer duly authorized by them, may issue and serve, or cause to be issued and served, upon such person a summons to pay in the form (C,) contained in the second Schedule annexed to this Act, or to the like effect, requiring such person to appear before the said Commissioners, or any one or more of them, on a day and at an hour and place to be named in such summons.

XLV. On the appearance of the party summoned, the said Commissioners, or any one or more of them, may make such further enquiry into the case as to them or him seems just, and may make such order for the payment of the whole or any part of the demand as to them or him seems just; and in case of the non-appearance of the party summoned, the said Commissioners, or any one or more of them, on proof of service of the said summons, and on making such further enquiry into the case as to them or him seems just, may decide the claim, in like manner as if the said party were present, and may make such order for the payment of the demand, together with such costs as to them or him may seem reasonable.

XLVI. In order that the Justices and Commissioners may be better informed of the value of any house, building, or ground, or in any other matter relating to their duty under this Act, and the execution thereof, the Justices or Commissioners, or any one of them, or their Officer duly authorized by them, may issue a summons, in the form (D,) contained in the second Schedule annexed to this Act, to any person whom they are desirous of examining for that purpose; and any one or more of the said Justices or Commisssioners may examine such person so summoned concerning the value of such house, building, or ground, or other matter relating to the assessment; and such examination shall be taken down in writing, in such manner as the Justices or Commissioners may order; and in case the answers of such person so examined shall appear to the said Justices or Commissioners to be evasive or unture; or in case the party summoned shall refuse to answer any lawful question of the said Justices or Commissioners, or any one of them, or

shall be proved to have refused to receive, or to have wilfully destroyed, defaced, or unlawfully detained any Bill, Summons, or Notice of Demand served upon him, with intent to evade being lawfully rated to the full amount of any of the said taxes due from him, or with intent to avoid or delay payment thereof; or shall be proved knowingly, or through gross negligence, to have given any false information, either verbally or in writing, to the said Justices or Commissioners, or any of them, or any of their Assessors or Officers, whereby they or any Assessor or person employed by them shall be misled in making any assessment; or in case the party summoned shall refuse, or without lawful excuse neglect to appear before the said Justices or Commissioners, in pursuance of such Summons; such person shall, for any of the above-mentioned offences, be liable to such penalty, not exceeding one hundred rupees, as shall be set on him by the said Justices or Commissioners, or any one of them, and such penalty shall be recovered under a warrant to be issued for that purpose by the said Justices or Commissioners, or any one of them, by distress and sale of any goods and chattels within the Town belonging to the person liable to pay or make good the said penalty; and every such warrant of distress may be in the form (G,) contained in the second Schedule annexed to this Act, or to the like effect.

XLVII. All arrears of taxes and penalties due under the said Statute 33 George III., Act XVI. of 1847, and this Act, and the costs and charges of recovering the same, may be recovered at any time after the day on which the person liable to pay such arrears has been summoned to appear before the Commissioners, or any one or more of them, as provided by Section XLIV. of this Act, under a warrant to be issued for that purpose, under the hand and seal of one of the said Commissioners, by distress and sale of any goods and chattels within the Town of Calcutta, belonging to the person liable to make good or pay the same, or being at any time within the house or building, or upon the ground in respect of which any such assessment is made: and every such Warrant of Distress may be in the form (E,) contained in the second Schedule annexed to this Act, or to the like effect.

XLVIII. The Bailiff shall make an inventory of all goods

and chattels seized under any warrant, and shall give a notice in writing in the form (F,) contained in the second Schedule annexed to this Act, or to the like effect, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be appraised and sold in manner therein mentioned.

XLIX. If the warrant is not in the mean time discharged or suspended by one or more of the said Commissioners, the goods and chattels seized shall be appraised and sold, and the proceeds thereof shall be applied in discharge of the arrears, or penalty, and costs; and the surplus, if any, shall be returned, on demand, to the person in possession of the goods and chattels at the time of the seizure; and the fees upon every such proceeding shall be such as are mentioned and set forth in the third Schedule annexed to this Act.

L. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of the rates, taxes, or penalties under the said Statute 33 Geo. III., Act XVI. of 1847, or this Act, the Commissioners, or any one or more of them, if they think fit, may auothorize any Collector or other person to sue the person liable to pay such rates, taxes or penalties for any arrears of such rates, taxes, or penalties, in the Calcutta Court of Small Causes; and all such suits may be prosecuted by such Collector or other person in the name of the Commissioners; and the costs, if any, incurred in any such suit, which are not recovered in the suit, may be defrayed out of the taxes levied under this Act.

LI. When any Bill, Notice of Demand, Summons, or other proceeding of any kind whatsoever with respect to any taxes under the said Statute, Act XVI. of 1847, or this Act, is to be issued to the owner of any premises, if his name be not certainly known, it shall be sufficient to address such proceeding to him by the description of the "Owner" of the premises (naming or describing them) in respect of which such proceeding is issued, without further name or description of such owner, and such proceeding may be duly served as hereinafter mentioned; and every Bill, Notice, Summons, or Notice of Demand, may be served personally upon the person to whom the same is addressed, or left with his door-keeper, or some inmate of his place of abode; and when any person shall, by keeping his place of

abode or business closed, or by absconding, or by violence or threats, prevent any Officer or Servant of the said Commissioners from serving any Bill, Notice, Summons, or Notice of Demand, as herein directed, such Bill, Notice, Schedule, Summons, or Notice of Demand, shall be duly served, by fixing the same conspicuously on some part of the outer wall, gate, or door of the house or place of business, or of the enclosure in which it stands: in case the place of abode of the owner be not within the limits of the said Town, it shall be sufficient for the Commissioners to transmit any Bill, Notice, Summons, or Notice of Demand, directed to him by name, through the Post, or to serve the same upon the occupier of the premises assessed, or upon the agent (if any) of such owner.

LII. No distress levied under the authority of this Act shall be unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the Notice, Bill, Summons, Notice of Demand, Warrant of Distress, Inventory, or other proceeding relating thereto, nor shall he be a trespasser from the beginning on account of any irregularity afterwards committed by him.

LIII. The said Commissioners shall, from time to time, subject to the approval of the Governor of the Presidency of Fort William in Bengal, make Rules for regulating their proceedings under this Act, and for the regulation of the time and manner of demanding and collecting the taxes specified in this Act, and for altering any of the forms set forth in the Schedules hereunto annexed, and the said Justices shall, from time to time, subject to the like approval, make Rules for regulating their proceedings under this Act, and for the regulation of the time and manner of assessing the rates specified in this Act.

LIV. The goods and chattels of the owner of any house, building, or ground rated, under the said Statute 33 George III. Chapter LII., Section CLVIII. Act XVI. of 1847, or this Act, shall be liable to be distrained anywhere (except goods and chattels concealed as hereinafter mentioned,) for deficiency in the payment of rates; and it shall not be necessary in any assessment, rate or tax, or Warrant of Distress under the said Statute, Act XVI, of 1847, or this Act to specify the names of the owners of houses, buildings or grounds:

but it shall be sufficient if the house, building, or ground, in respect of which the tax is assessed, be identified, and in the case of houses numbered in any street, that the name of the street and the number of the house be specified.

LV. All goods and chattels, which shall be found upon any premises rated, shall be liable to be distrained for any arrears of rates or taxes assessed in respect thereof; and if the said goods and chattels belong to the occupier of such premises, such occupier may deduct the amount of the levy made upon his goods and chattels, or of any payment made by him in order to prevent such levy, from the following payments of his rent. If they belong to any person other than the occupier of the premises, or if no further rent is payable by such occupier, he may in such case recover the amount so paid or levied, by suit in the Calcutta Court of Small Causes, from the owner of the premises, as for money paid on his behalf.

LVI. Every person shall be entitled to have from the Secretary to the Commissioners, on application at their Office, and on payment of a fee of four annas, a certificate, specifying the last quarter in respect of which the taxes on account of any house, building, or ground are paid.

LVII. When there is reason to believe that goods and chattels, liable to distress under the said Statute, Act XVI. of 1847, or this Act, are concealed in any zenana, the officer charged with the execution of the warrant shall make a special report to the Commissioner granting the same, who shall thereupon follow, as closely as may be, the rules for the seizure of goods and chattels in like cases adopted by Her Majesty's Supreme Court of Judicature.

LVIII. Every person who wilfully obstructs or molests the said Commissioners, or any one of them, or their Secretary, or any of their Officers or Servants in the performance of their respective duties, under the said Act of Parliament, Act XVI. of 1847, or this Act, shall be liable, on summary conviction before a Justice of the Peace, on his own confession or the oath of one or more witnesses, to forfeit and pay a penalty not exceeding fifty rupees.

LIX. The Commissioners or any one of them may sue and be sued at law and Equity in the name of their Secretary for

the time being, and no action or suit to be brought or commenced by or against such Secretary, in manner aforesaid, shall abate or be dicontinued by the death, resignation, or removal of such Secretary; and no execution shall issue or be had in any such action or suit against such Secretary until six months' notice shall have elapsed after final judgment in such action or suit shall have been obtained, and every such Secretary, in whose name or by or against whom any such action or suit shall be brought, commenced, or sued, shall be fully reimbursed and paid all such costs, charges, damages, and expenses as by the event or in consequence of any action, suit, or proceeding he shall pay, sustain, or be put unto or become chargeable with or liable to by reason of his being plaintiff or defandant as aforesaid, or of his name being used as aforesaid, by and out of the funds under the control of the Commissioners; and if any person against whom the Commissioners shall have any claim or demand, take the benefit of, or become subject as an insolvent to the operation of any Act for the Relief of Insolvent Debtors, the Secretary of the Commissioners in all proceedings in the insolvency may represent the Commissioners, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such Secretary, and not of the Commissioners.

LX. The Secretary of the Commissioners being the plaintiff, prosecutor, or defendant, or otherwise acting in any action, suit, or proceeding as aforesaid, shall be competent to be a witness therein, in the same manner as he might have been if his name had not been made use of as the plaintiff, defendant, or otherwise in any such action, suit, or proceeding.

LXI. No writ or process shall be issued out against or served upon any Commissioner or any Secretary, Surveyor, or other Officer, or person whomsoever acting under the direction of the Commissioners, for anything done or intended to be done under the powers of this Act, until the expiration of one month next after notice in writing shall have been delivered to him or left at his Office or place of abode, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his Attorney or agent in the cause; and upon the trial of any such action, the plaintiff shall not be permitted to go into

evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant; and every such action shall be brought or commenced within three calendar months next after the accrual of the cause of action, and not afterwards, and if any party shall have committed any irregularity, trespass, or other wrongful proceedings in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof, such party shall make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action when brought, and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

LXII. No matter or thing done, or contract entered into by the Commissioners, or any one of them, or by any Secretary, Surveyor, or other Officer or person whomsoever, acting under the direction of the Commissioners, shall, if the matter or thing were done, or the contract were entered into *bonâ fide*, for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever; and any expense incurred by any such Commissioners, Secretary, Surveyor, or other Officer or person acting as last aforesaid, shall be borne and repaid out of the funds under the control of the Commissioners.

LXIII. In any such action as aforesaid the defandant may plead the general issue, and give this Act, and any special matter in evidence on the trial.

LXIV. If in any such action judgment be given for the defendant, or if the plaintiff be nonsuited or discontinue the said action, the defendant shall be entitled to his costs as between attorney and client, and shall have such remedy for recovery thereof as any defendant has for his costs in any other case by law.

LXV. The whole proceeds of the said taxes, after paying all salaries, establishments, and incidental expenses of the said

Commissioners, shall, with such moneys as the Governor of the Presidency of Fort William in Bengal, with the sanction of the Governor General of India in Council, may direct to be paid to the said Commissioners, be applied by them to the following purposes, that is to say,—

1stly,—Cleansing, repairing, lighting and watering the roads and streets.

2ndly,—Constructing new drains and sewers, and cleansing and repairing or filling up and abolishing old drains and sewers.

3rdly,—Filling up stagnant pools of water, holes in the earth, and all receptacles for filth and rubbish, and removing obstructions in or on the roads and to the free circulation of air.

4thly,—Formation of tanks and aqueducts for the conveyance of water to all parts of the Town.

5thly,—Opening of streets and squares in crowded parts of the Town.

6thly,—Improving and embellishing the said Town generally.

LXVI. In construing this Act all words used in the singular number shall be held to include several persons and things, and words in the plural shall be held to include the singular number, and all words importing the masculine gender shall extend and be applied to females as well as males, unless there is something in the context inconsistent with such construction.

First Schedule.

No. *Form* 1.

Form of Voting Ticket.

Division.	Name of Rate-payer.	Aggregate value of Houses, Buildings, or Grounds for which he is assessed.	Total. Assessment.

Entitled to vote.

Secretary.

Reverse.

I, the undersigned, being the rate-payer within described, do hereby give my vote for as Commissioner for the ( ) Division.

Calcutta,
The 18 } *Signature.*

No. *Form 2.*

Division.	Street.	No. of House.	Name of occupier

Entitled to vote.

Secretary.

Reverse.

I, the undersigned, being the occupier within described, do hereby give my vote for as Commissioner for the ( ) Division.

Calcutta,
The 18 . } *Signature.*

SECOND SCHEDULE.

(A)

House Tax Bill.

Division No.

Street No.

Remit

Premises No.

Dr.

To Assessment on the above-mentioned Premises for

Quarter.

Rated at Rupees „ „ per month

Quarterly Assessment, Rs. „ „

Received Payment,

Collector.

Calcutta, 18

(B)

Notice of Demand.

Number
Division
Street
House

Take Notice that I, on behalf of the Collector of Assessments, have demanded and demand from you the arrears of Taxes assessed upon you as owner of the premises mentioned in the margin, for the ( ) Quarter, viz. the months of 18 under the Provisions of Act X. of 1852, amounting to Rupees , and that if the same be not paid into the Collector's Office within five days after this demand, you will be reported to the Commissioners, and will be liable to the expenses of any further proceedings.

For the Collector,

Collecting Sircar.

Calcutta,
This day
of 18 .

(C)

Summons to Pay.

No.
To

Number
Division
Street
House
Quarter

You are hereby summoned to appear personally before the Commissioners for the Improvement of the Town of Calcutta, or such one or more of them as shall be at their Office at o'clock on the day of 18 , to answer to a complaint made against you by the Collector of Assessments for non-payment of the Taxes imposed on you as owner of the premises mentioned in the margin, under the Provisions of Act X. of 1852, for the ( )

Quarter, that is to say,—the months of (
) amounting to Rupees

Commissioners' Office.

No.

Given under my hand,
this day of } A. B.
18

(D)

Summons to give Evidence.

To

Under the authority of Act X. of 1852, you are hereby summoned to appear personally before the Commissioners for the Improvement of the Town of Calcutta, or such one or more of them as shall be at their Office at o'clock on the day of 18

(Here set out the cause of Summons.)

Commissioners' Office.

Given under my hand,
this day of } A. B.
18

(E)

Distress Warrant.

Town of Calcutta. } To

One of the Bailiffs for the Commissioners for the Improvement of the Town of Calcutta.

Number
No. of
Division
Street
House

Whereas of in the said Town is this day duly convicted before of the Commissioners for the Improvement of the Town of Calcutta, for that the said doth refuse or neglect to pay, and hath not yet paid, the Taxes on houses, buildings, and lands mentioned in the margin, to which he is assessed under the Provisions of Act X. of 1852, for the ( ) Quarter, that is to

say, for the months of (
) amounting to the sum of
Co.'s Rs. although the said
sum has been demanded of him, and five days have lapsed since such demand; This is to command you to distrain the Goods and Chattels of the said
within the said Town, or any Goods and Chattels which you may find on the premises in respect of which the said Taxes are due, to the amount of Co.'s Rs.
and such further sum as may be sufficient to defray the charges of making such distress; and if within five days next after such distress, the said sum of Co.'s Rs.
shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said Goods and Chattels; and having paid out of the money arising by such sale, the said sum of Co.'s Rs.
to the Collector of Assessment for the said Commissioners, and having deducted the necessary charges of taking, keeping, and selling the said distress, to return the overplus, if any, on demand, to the person whom you shall find in possession of the said Goods and Chattels.

Given under my hand and seal, this day of 18 . } (L. S.)

One of the Commissioners for the Improvement of the Town of Calcutta.

(F)

Inventory.

Quarter
Number

An Inventory of the several Goods and Chattels distrained by me.

No. of Division Street House

Bailiff, No.
situated in for the sum of Company's Rupees Annas
Pies being Arrears of Assessment due up to the day of
last, for Taxes under the Provisions of Act X. of 1852 (or being the amount of a penalty imposed on by
of the said Commissioners, or Justices of the Peace as the case may be), with the costs and charges for enforcing payment of the same.

To

Take Notice, that I have this day distrained the several Goods and Chattels specified in the Inventory for Taxes under the Provisions of Act X. of 1852 (or being the amount of the said penalty), and that unless you pay the said sum, with the charges of distraining, into the Office of the Collector of Assessment, within five days from the date hereof, the said Goods and Chattels will be sold according to law.

Arrears, Rs.
Costs, „
Co.'s Rs.

Witness my hand, this day of 18 .
Bailiff.

(G)

Distress Warrant.

Town of Calcutta. } To

One of the Bailiffs for the Commissioners for the Improvement of the Town of Calcutta.
Whereas A. B., of in the said Town is this day duly convicted before of the Commissioners for the Improvement of the Town of Calcutta, (*or Justice of the Peace, as the case may be,*) of the offence of (*here state the offence*) against the form of the Act X. of 1852 in that case made and provided, and was therupon adjudged by
that he the said A. B. had forfeited the sum of

Rs. (here state the amount) for the offence (
) aforesaid; And whereas the said A. B., being required to pay the said sum of Rs. *(here state the amount aforesaid)* hath not paid the same, but therein has made default: These are to command you to distrain the Goods and Chattels of the said A. B. which may be found within the said Town, to the amount of the said sum, and such further sum as may be sufficient to defray the charges of making such distress; and if within five days next after such distress, the said sum of Rs. *(here state the amount)* together with the reasonable charges for taking and keeping the said distress, shall not be paid, to sell the said Goods and Chattels, and having paid out of the moneys arising by such sale the said sum of Rs. *(here state the amount)* to the Collector of Assessments for the said Commissioners, and having deducted the necessary charges of taking, keeping, and selling the said distress, to return the overplus (if any) on demand, to the person whom you shall find in possession of the said Goods and Chattels.

Given under hand and seal, this day of 18 . } (L. S.)

of the Commissioners for the Improvement of the Town of Calcutta, (or Justice of the Peace, as the case may be.)

THIRD SCHEDULE.

Table of Fees to be taken for Proceedings under this Act.

	Rs.	As.
For every Summons to pay - -	1	0

IN DISTRAINTS.

SUM DISTRAINED FOR.				FEE.	
				Rs.	As.
Under 5 Rupees,				1	4
5 and under 10	Rupees,			2	0
10 ,, 15	,,			2	8
15 ,, 20	,,			3	8
20 ,, 25	,,			4	4
25 ,, 30	,,			5	0
30 ,, 35	,,			5	8
35 ,, 40	,,			6	8
40 ,, 45	,,			7	12
45 ,, 50	,,			8	8
50 ,, 60	,,			10	0
60 ,, 80	,,			11	8
80 ,, 100	,,			13	0
Above 100	,,			15	0

The above charge includes all expenses except when peons are kept in charge of property distrained, in which case 4 Annas must be paid daily for each man.

BOMBAY.—LAND TITLES IN NEW TERRITORIES.

ACT No. XI, OF 1852.

[*Passed on the* 13*th February*, 1852.

Recites expediency of providing means of settling claims against Government in certain districts: and that rules of Bombay R. 17, 1827, *Chap.* 9, 10, *and R.* 6, 1833, *Cl.* 1. *do not apply to districts not under Government Regulations; enacts.*

1. *No order of Government regarding title to lands in any of the non-regulation districts shall be questioned in any Court of law on ground of inconsistency with this Act.*

2, 3. *Governor of Bombay may appoint in recited districts an Inam Commissioner with assistants: who* (3) *shall discharge their duties according to rules in Schedule to this Act.*

4. *Claims to exemption shall be determined according to Rules in Schedule B.*

5. *Each Inam Commissioner to have same authority for examination of witnesses and taking evidence and inflicting penalties as the Civil Courts.*

6. *Bribery, extortion and generally all acts of abuse under the Commission shall be punishable as criminal offences without prejudice to civil remedy.*

7. *No decision of Inam Commissioner, &c. shall be questioned in Court of law.*

Schedule A. *Rules for defining the duties of each Inam Commissioner and his assistants.*

Rule 1. *Defines the functions of the Inam Commissioner and his assistants.*

Rule 2. *Gives appeal against orders of Assistant Commissioner.*

Rule 3. *And subsequent rules prescribe the mode of proceeding to establish claim.*

Schedule B. *Rules for adjudication of titles to estates claimed as Inam.*

Rule 1. *Confines all Inams already declared permanent by competent authority since the introduction of the British Government, and provides in what way competency of officer shall be decided if questioned*

Rule 2. *Land to be hereditary if expressly made so by Sunnud, provided,* (1) *that Sunnud was made by competent authority;* (2) *that no illegal conditions are attached to the tenure; and* (3) *that it was not revoked, &c.*

Rule 3. *An uninterrupted holding for* 60 *years before the introduction of British Government, to establish a prescription, provided there has been a male heir in possession all the time. The right not to descend on heirs by adoption, nor on female heirs.*

Rule 4. *Lands held for* 40 *years in the male line to continue to be held for one more generation; but not by an adopted heir;* (1) *What shall be sufficient proof of authorized possession;* (2) *claim to be allowed unless the grounds of it be disproved; and* (3) *what shall be deemed the time of the introduction of British Government.*

Rule 5. *None so numbered.*

Rule 6. *Exemptions not protected by above rules to be abolished on demise of incumbent: and* (1) *bonâ fide holder to be deemed incumbent;* (2) *this privilege not to extend to persons holding by fraud.*

Rule 7. *Lands held for support of Mosques, &c. not to be resumed,* (4) *if they have been enjoyed for* 40 *years:* (5) *What shall be deemed sufficient proof of enjoyment;* (6) *but this rule not to apply in favor of private holdings* (7) *see the provision.*

Rule 8. *Lands held under an official tenure intended to be permanent not to be resumed; but this rule is subject to several complicated provisions, not capable of abridgment.*

Rule 9. *On resumption of lands a moiety may be continued to widows of last incumbent, &c. in case of destitution.*

Rule 10. *Makes discretionary with Government to apply these rules to certain specified kinds of lands.*

Rule 11. *Empowers the G. in C. to relax the rules; who also shall interpret them.*

An Act for the Adjudication of Titles to certain Estates claimed to be wholly or partially Rent-free in the Presidency of Bombay.

Whereas in the Territories of the Deccan, Kandeish, and Southern Mahratta Country, and in other Districts more recently

annexed to the Bombay Presidency, claims against Government on account of Inams and other Estates wholly or partially exempt from payment of Land Revenue are excepted from the cognizance of the ordinary Civil Courts, and incapable of being justly disposed of under the Rules for the determination of Titles, and the Rules of Procedure contained in Chapters IX. and X. of Regulation XVII. of 1827 of the Bombay Code and their Supplements; and whereas it is desirable that the said claims should be tried and determined without further delay, It is declared and enacted as follows:

I. The Rules in Chapters IX. and X. of Regulation XVII. of 1827, and in Clause 1 of Regulation VI. of 1833 of the Bombay Code, do not apply to any of the Districts of the Bombay Presidency which were not brought under the General Regulations of Government by Regulation XXVIII. of 1827 of the Bombay Code; and no order hitherto passed regarding the continuance or resumption of lands in any of the said Districts held or claimed from Government as wholly or partially free of assessment, shall be liabe to be questioned in any Court of Law, on the grounds of any interpretation or construction of the Law, which may be inconsistent with the declarations made and the rules prescribed by this enactment.

II. The Governor of Bombay in Council may appoint in any Zillah or other division of the Territories subject to the Presidency of Bombay, which were not brought under the General Regulations of Government by the said Regulation XXVIII. of 1827, an Inam Commissioner with so many Assistants, and such subordinate Establishment, as may be necessary for the purposes hereinafter mentioned.

III. The duties of each Inam Commissioner and his Assistants shall be discharged according to the Rules in Schedule A, annexed to this Act.

IV. In the adjudication of claims to exempt lands or interests therein, the titles of claimants shall be determined by the Rules in Schedule B, annexed to this Act.

V. Each Inam Commissioner and his Assistants shall have the same authority to procure the attendance of witnesses, and to take evidence, as now is, or from time to time may be, by Law vested in the ordinary Civil Courts: and so far as concerns the

penalties for not giving evidence, for false testimony, for resistance of process, contempts, and other like matters, connected with cases under cognizance by any one of the said Officers, his Office shall be held to be a Court of Civil Jurisdiction of the same authority as the superior Civil Court of the Zillah or District in which his Office from time to time shall be established. Provided that all complaints against, or appeals from the proceedings of the Inam Commissioner or any of his Assistants in exercise of the authority conferred on them respectively by this Section, shall be made under the second Rule of Schedule A, annexed to this Act, and shall not be cognizable by any other authority or in any other manner than as therein specified.

VI. Bribery, extortion, and generally all acts of abuse, or misapplication of authority, or other misconduct, committed by any Officer belonging to the Establishment of the Inam Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences with fine and ordinary imprisonment without labour for a period not exceeding five years, and the receipt of a present, directly or indirectly, by any such Officer from any person against whom or in whose behalf he may be officially employed, shall be considered extortion And no penalty or punishment adjudicated under this Clause shall preclude any other Civil prosecution to which the offender may be liable.

VII. No decision or order of the Inam Commissioner, or of any of his Assistants, or of the Governor in Council, under the provisions of this enactment, so long as the same shall be in force under such provisions, shall be questioned or avoided in any Court of Law; and no Commissioner or Assistant Commissioner, or other person acting under the provisions of this Act, shall be liable to be sued in any Civil Court for any act *bonâ fide* done or ordered to be done by him in pursuance of the said provisions.

SCHEDULE A.

Rules for defining the Duties of each Inam Commissioner and his Assistants.

1. The duty of the Inam Commissioner and his Assistants shall be to investigate, in the manner prescribed by this enact-

ment, the titles of persons holding or claiming against Government the possession or enjoyment of Inams or Jagheers, or any interest therein, or claiming exemption from the payment of Land Revenue, and generally to act according to the instructions of Government in all matters not specifically provided for in this enactment.

2. All orders of the Assistant Commissioners shall be appealable to the Inam Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings, and the orders and proceedings of the Inam Commissioner shall be in like manner appealable to, and subject to modification, reversal, or annulment by the Governor of Bombay in Council, whose orders shall in every case be final.

3. The Inam Commissioner or his Assistants shall receive from the persons holding or claiming to hold lands or any interest therein exempt from the payment of Revenue, statements explaining the nature of the title by which the lands or interests are so held, and shall take and record the evidence offered in support of such statements.

4. These statements may be received, either directly by the Officers of the Inam Commission, or through the medium of the Revenue Authority of the Talooka in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor resides, without any previous procedure, except a general invitation to such landholders of a District who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles.

5. But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring him personally, or by his Agent, to shew his title. The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands or interest held or claimed to be held exempt as aforesaid, to attend either personally or by an authorized Agent, at a specified place, and within a specified period, (which shall never be less than two months from the date of the notice being served,) to explain the

nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it. The notice shall further explain that a failure to comply with its terms will render the land, or interest to which it relates, liable to attachment.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt as aforesaid, or, if his place of residence be not known, upon the person acting for him, or in default of such, upon the person in charge of the land or interest.

7. If such persons cannot be found, a notice shall be posted in the Office of the Native Revenue Officer of the District, and in the Chouree or most public place of the village, where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally or by his Agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest, and on failure of the appearance of a claimant, the land or interest shall be liable to attachment.

8. The attachment provided for by Rules 5 and 7 shall be enforced by the Collector or Chief Revenue Authority of the District in which the land to which it relates is situated, at the written requisition of the Inam Commissioner or his Assistant, which shall be a sufficient warrant to the Collector for the attachment of the land, and for the collection of the rents accruing therefrom on account of Government during its attachment.

9. As soon as possible after the receipt of the statements in each District, and of the evidence by which they are supported, they shall be tested by the entries in the Government accounts and State records, and by any other evidence procurable, whether in favor of Government or of the claimants, and decisions shall then be passed on them as to the continuance, resumption, or full or partial assessment of the lands.

10. In cases where the notices provided for in Sections V. and VII. fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant Commissioner shall proceed to ascertain the facts of the case from such evidence as

may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

11. An attachment enforced under Rule 8 shall be removed by the Collector or Chief Revenue Authority by whom it was made, on receipt of a communication from the Inam Commissioner or his Assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions of Government.

12. Certified copies of decisions, made according to the provisions of Rule 9, shall be delivered as soon as possible after each decision is passed, to the persons on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant, according to the provisions of Rule 10, shall be sent to the Mamlutdar, or other Revenue manager of the talook in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or otherwise cause them to be publicly posted in the village to which the lands in question belong.

13. Decisions, affecting any lands or any interests therein, passed under this enactment, shall be carried into execution by the Collector or Chief Revenue Authority of the District in which the lands to which they relate are situated, at the requisition of the Inam Commissioner or his Assistant, in any manner which may, from time to time, be prescribed by the Governor of Bombay in Council.

14. In all cases where a person may be desirous of appealing against any decision of the Inam Commissioner or his Assistants, he shall apply by a petition, addressed to the Authority by whom, according to Rule 2, his appeal is cognizable, which petition shall be presented to such Authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal, and no appeal which is not so made shall be admitted, without proof of the existence of a just and necessary cause for its not having been preferred in due time; and it is hereby provided, that no decree

passed by the Inam Commissioner or any of his Assistants, shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

SCHEDULE B.

Rules for the adjudication of Titles to Estates claimed as Inam or exempt from payment of Land Revenue.

Regarding Inams already declared permanent by competent authority since the introduction of the present Government.

1. All lands held under a specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment of Revenue, are to be so continued according to the purport of such declaration.

Provision 1st.—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commisioner or Assistant Commissioner is to suspend his judgment, and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly.

Regarding claims to personal Inams, not yet adjudicated under the present Government

2. Any land held under a sunnud declaring it to be hereditary, shall be so continued according to the terms of the sunnud.

Provision 1st.—Provided that the grant was either made, or specifically recognized, by authority competent to alienate Government Revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

Provision 2nd.—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

Provision 3rd.—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognized by a competent authority.

3. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the British Government, and then in the authorized possession of a grandson in male descent, or male heir of the body of such grandson of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only.

4. All lands, uninterruptedly held as wholly or partially exempt from assessment, for a period of forty years before the introduction of the British Government, and then in the authorized possession of a son, or male heir of the body of a son of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son.

Provision 1st.—The authorized possession contemplated by Rules 3 and 4 does not involve the necessity of proving any specific authority from, or recognition by, the Government or Paramount Power. The mere entry of the holding, as continued in the genuine accounts of the District Officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of "uninterrupted" and "authorized" so far as regards the purposes of this Rule; provided only that there are no entries in the Collectorate accounts, which shew that the holding of such lands exempt as aforesaid must have been unauthorized by the Government or Paramount Power.

Provision 2nd.—If there be not evidence forthcoming to disprove a claimant's assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of Rules 3 and 4 respectively, his prescriptive right shall be admitted.

Provision 3rd.—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or Paramount Authority over each District as regards its Inams. In the Territories ceded by or conquered from the Peshwa, therefore, whether Khalsat Mahals

or Serinjams, &c., held exclusive of Inams, &c., the introduction of the British Government will date from the close of that of the Peshwa. But in case of the lapse of an independent principality, or of a jagheer more ancient then the Peshwa's Government, and over the Inams of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the Districts may have come into the hands of the Company, and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any District came into their hands, such question shall be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

6. Land held as wholly exempt from payment of Revenue, or on partial assessment, the possession of which is not continuable under the preceding Rules, is to be resumed on the demise of the incumbent.

Provision 1st.—In case the incumbent at the time of the introduction of the British Government may have died, the permission to hold for life is to be extended to the person in whose name the land may be continued, when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

Provision 2nd.—When land is evidently held by fraud recently committed, (as when an Inam which was resumed under the late Government has been re-occupied under the present Government without authority, or as when a pretended Inam is found to have originated since the introduction of this Government with the connivance of District or Village Officers), it shall be at once resumed, not being continuable under this or any of the preceding Rules.

Regarding claims to Inams apparently permanent by the nature of the objects for which they are held, and not merely personal.

7. All lands held for the support of Mosques, Temples, or similar Institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Provisions 1st, 2nd and 3rd.—The same as the corresponding

Provisions of Rule 2 of this Schedule in those cases in which Title Deeds or other Records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an Inam, coming under the Provisions of this Rule, was granted, or even specifically recognized by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued, and enjoyment proved by the mere entry of the Inam, as continued in genuine accounts of the District Officers, (even in those not passed by the Government of the time being,) is to be considered sufficiently "uninterrupted" to give an Inam the benefit of this provision, if there be no entries in the Government accounts which shew that it must have been unauthorized by them.

Provision 5th.—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated in Provision 4th as establishing full prescriptive title in such Inams, still, if so far as they do go, they are not opposed to the claimant's assertion that sufficient enjoyment has taken place, the prescriptive title of the Inam shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

Provision 6th.—The peculiar advantages of this Rule shall not apply to the holdings of individuals in their own names for the performance of ceremonial worship, claims to which must be decided under the Rules for personal claims.

Provision 7th.—When claims of the denomination coming under this Rule are found to be unsupported by proof of original valid title, and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to Rule 6.

8. All land authorizedly held by an official tenure which it is evident from local usage was meant to be hereditary, and has been so considered heretofore, even though there be no sunnuds declaring it to be so,—for instance, Inams which form the authorized emoluments of any hereditary office, as of Kazees, Village Joshees, &c., and are not merely personal,—are to be continued permanently.

Provisions 1st, 2nd and 3rd.—The same as the corresponding Provisions of Rule 2 of this Schedule in those cases in which Title Deeds or other Records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an Inam, coming under the provisions of this Rule, was granted or even specifically recognized by competent authority, still if it has been undisputedly enjoyed as an official and not merely personal holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper.

Provision 5th.—The provisions of this Rule are not in any way to apply to emoluments continued for service performed to the State, as the Service Wuttuns of Desaees, Surdesaees, Nargowdas, Deshpandes, Patells, Coolkurnees, Mhars, Tulwars, whose claims are to be disposed of according to the Rules which are or may be established for the regulation of such holdings.

Provision 6th.—It is to be undertsood that mere length of enjoyment of land as Inam by an official person is not of itself sufficient to entitle a claim to be brought under this Rule.

Provisior 7th.—If a holding, claimed under this Rule, be found incapable of permanent continuance under it, the claimant shall be allowed the advantages of any of the preceding Rules of this Schedule which may be applicable to his case.

Regarding Provision for the Widows of the last incumbents of resumed holdings.

9. On the resumption of any lands under the Rules of this Schedule, a moiety, or other portion may be continued to the Widows of the last incumbents during their lives, in cases of proved poverty and destitution.

Provision 1st.—In the case of a holding, which is recognizable as an hereditary personal Inam, the widow of a proprietor who dies without surviving male issue, or other heirs to whom his Inam will of necessity descend, is by right his sole heir, and during her life, the Inam cannot be regarded as having lapsed to Government: it should therefore, in such a case, be continued undiminished during the widow's life.

Regarding the exception of certain tenures from the application of these Rules.

10. These Rules shall not be necessarily applicable to Jageers, Serinjams, or other tenures for service to Government, or tenures of a Political nature, the titles and continuance of which shall be determined as heretofore under such Rules as Government may find it necessary to issue from time to time.

Regarding the modification and interpretation of these Rules.

11. Any of these Rules may be relaxed in favour of claimants under instructions from the Governor of Bombay in Council, in whom shall also be vested the power of interpreting the precise meaning of any of the Rules respecting which a question may arise.

CALCUTTA.—MUNICIPAL COMMISSIONERS.

ACT No. XII. OF 1852.

[*Passed on the 20th February*, 1852.

1. *Repeals Act* 2, 1848 *and Bye-laws made under it. Act* 24, 1840 *not revived.*

2. *Commissioners may nominate Surveyors, &c. subject to approbation of G. of B.*

3. *Vests the management and control of all streets, &c. and public tanks, &c. in the Commissioners.*

4. *Empowers the Commissioners to make, alter, stop up, &c. streets giving compensation to owners injured thereby, &c.*

5. *Empowers the Commissioners to pave, water, &c. streets and excavate tanks, &c.*

6. *Empowers Commissioners to purchase or take on lease lands, &c. for water works, &c.*

7. *Empowers the Commissioners to sell or dispose of lands or other property acquired by them, &c.*

8. *Empowers the Commissioners in relation to sewers, drains, staynant pools, ditches, &c.*

9. *Empowers the Commissioners to enter and examine private lands for the purpose of carrying into effect their powers with respect to drains, &c.*

10, 11. *Empowers the Commissioners to fence up ruinous and dangerous buildings, &c. and to take them down in case of need; and* (11) *to sell the materials, &c.*

12. *Empowers the Commissioners to make reservoirs, canals, aqueducts, &c. in Calcutta.*

13. *Empowers the Commissioners, Surveyors, &c. for the construction of aqueducts to do all necessary acts out of Calcutta as they might do in Calcutta.*

14. *Empowers the Commissioners to contract for the execution of public works: but the Commissioners, &c. not to have any interest in such contract, &c.*

15. *Empowers the Commissioners to contract for a supply of water and may lease water-works, &c. belonging to the Commissioners, &c.*

16. *Empowers the Commissioners to enter on lands and temporarily deposit therson materials for public works, &c.*

17. *Requires the Commissioners when executing works and temporarily stopping up roads, &c. to provide other roads, &c. temporarily.*

18. *Requires the Commissioners to make compensation out of the taxes for damage done in execution of powers.*

19, 20. *Empowers the Commissioners to direct prosecution for penalties, &c. under this Act; and* (20) *to prosecute by indictment in certain cases.*

21. *Empowers the Commissioners and their servants to arrest any unknown person without summons, for any offence against this Act.*

22. *Empowers the Commissioners and every person appointed by them to enter bazars and shops used for sale of meat, &c. and examine any animal, carcase, &c. and sieze same if unfit for food.*

23, 24, 25, 26, 27, 28. *Empowers the Commissioners to remove obstructions on streets, &c. and* (24) *to fill up unwholesome tanks; and* (25) *to affix on houses the names of streets; and* (26) *to kill dogs; and* (27) *to repair streets; and* (28) *to shore up adjoining houses and temporarily stop ways.*

29, 30, 31, 32, 33. *Empowers Commissioners to light the town; and* (30) *to keep the town clean; and* (31) *to provide traps, &c. for drains and prevent effluvia from rising; and* (32) *to shut up burial grounds; and* (33) *prohibits intra-mural interments and the establishment of any new burial grounds without consent of the Commissioners.*

34. *Protects the Commissioners and their officers and servants from actions till after one month's notice, and empowers them to tender amends, and limits the time for bringing the action to 3 months after cause of action.*

35. *No contract of the Commissioners, &c. nor act done by them shall bring on them any liability if the contract was made or act done bonâ fide by them.*

36. *Vests streets, drains, &c. and all the municipal property in the Commissioners.*

37. *Nuisances at common law or under the Act, may be prosecuted notwithstanding the Act.*

38, 39. *Provides for branch drains being made into the public drains by private persons; or* (39) *being made by the Commissioners by contract with private persons.*

40. *Requires notice to be given to Commissioners of intention to construct any new buildings, &c. contiguous or near the street.*

41. *Prescribes a penalty on conviction before J. P. of offences specified in* 32 *clauses, viz.* (1) *throwing dirt, &c.* (2) *broken bottles on street;* (3) *keeping dirt, dung, &c. in houses for more than* 24 *hours;* (4) *neglecting to keep private tatties, drains, &c. clean;* (5) *suffering house to be in filthy unwholesome state;* (6) *allowing offensive liquids to drain into tanks, &c.* (7) *keeping common tatty, &c. without license; or* (8) *suffering such tatty, &c. to be in filthy state;* (9) *destroying, &c.*

lamps, &c. (10) *injuring streets, pavements, &c.* (11) *taking down boards, &c. put up by Commissioners;* (12) *carrying filth through streets, &c. except after midnight;* (13) *bathing in public streets:* (14) *washing animals in tanks, &c.* (15) *indecently exposing the person;* (16) *allowing water to fall on the streets and not altering direction thereof;* (17) *continuing projections over street, or;* (18) *setting them up;* (19) *washing carriages in the streets;* (20) *setting up scaffolding without license;* (21) *not lighting licensed obstructions;* (22) *building wall in street;* (23) *exposing goods for sale in street;* (24) *cleaning grain, &c. in street;* (25) *leaving carriages, &c. in streets;* (26) *discharging fire works, &c.* (27) *beating sounding instruments, &c.* (28) *affixing bills, &c. to walls;* (29) *exposing decayed food, &c.* (30) *slaughtering animals in street;* (31) *having bazar, &c. in filthy state;* (32) *keeping swine, &c.*

42. *Empowers the Commissioners, &c. to set apart ghauts for bathing on banks of river, and prohibits other use of them.*

43. *Empowers Commissioners &c. to authorize street illuminations.*

44. *Requires owners, &c. of bazars, markets, &c. to register same.*

45. *Prohibits using new slaughtering houses without consent of Commissioners.*

46. *Requires markets, tanneries, slaughter houses, &c. to be sufficiently drained.*

47. *Imposes a penalty on the establishment of tanneries, &c. within the town.*

48. *Directs that all doors and gates shall open inwards and not on public street.*

49. *Requires houses, &c. to be numbered by owners, &c.*

50. *Requires occupiers of certain houses to keep a lamp outside the same, &c.*

51. *Person continuing a nuisance 7 days after conviction to be punishable again.*

52. *Persons obstructing Commissioners or their officers to be liable to penalty.*

53. *Penalty not to be enforced, unless complaint is made within 3 months.*

54. *Directs how damages and costs under this act may be ascertained by arbitration, &c.*

55. *Commissioners to publish short particulars of certain offences and penalties.*

56. *Penalties not otherwise provided for, may be recovered before Magistrate, &c.*

57. *Wherever distress may be made, goods distrained may be sold or penalties may be recovered in Small Cause Court.*

58. *Distress not to be unlawful for want of form.*

59. *Penalties may be awarded half to the informer, the rest to the Commissioners.*

60. *Penalty not to bar claim of injured party for compensation.*

61. *Empowers Justices to summons witness, &c.*

62. *Interpretation clause.*

An Act to repeal Act No. II. of 1848, and to confer certain powers on the Commissioners for the improvement of the Town of Calcutta.

Whereas by Section LXV. of Act No. X. of 1852 it is, among other things, enacted that certain funds therein mentioned should be applied by the Commissioners for the Improvement of the Town of Calcutta in cleansing, improving, and embel-

lishing the said Town: and whereas it is expedient that the said Commissioners should be invested with further powers for the effectual accomplishment of the purposes aforesaid, It is hereby enacted as follows:

I. Act II. of 1848, and the Bye-Laws made in pursuance thereof, and the Regulation for the Good Order and Civil Government of the Settlement of Fort William in Bengal, passed in Council on the 28th day of October 1814, are hereby repealed. Act X. of 1852, repealing Act XVI. of 1847, shall not be construed so as to revive Act XXIV. of 1840.

Commissioners to appoint Surveyors and other Officers.

II. The said Commissioners may, subject to confirmation or disallowance by the Governor of Bengal, nominate, appoint and employ, respectively, such Surveyors, Inspectors, and other necessary Officers and Servants as may be necessary or proper for the execution of the powers hereby vested in them; and such Surveyors, Inspectors, Officers and Servants shall receive such salaries as to the Governor of Bengal shall seem meet.

Commissioners to have management and control over streets, drains, &c.

III. The management and control over all the streets within the said Town of Calcutta, existing at the time of the passing of this Act, and of all parts of the said Town which shall hereafter become streets and the pavements and other materials therein, and all erections and buildings, materials, implements or other things provided for the said streets by or under the authority of the Governor of Bengal, or by the Magistrates of Calcutta, or by the said Commissioners, and also the management and control of all public tanks, aqueducts and canals, and of all sewers and drains, whether public or private, now made or hereafter to be made within the said Town, are hereby vested in the said Commissioners for the purposes of this Act.

Commissioners empowered to make or widen or stop up streets.

IV. The said Commissioners, by and with the consent of the Governor of Bengal, may lay out, make, build and constuct streets, and may alter and widen narrow streets, and may turn, divert, discontinue or stop up streets, within the said Town, regard being had to the compensation of owners of lands which may be required to be vested in the said Commissioners for any such purposes, and of owners of lands

which may be damaged or deteriorated in value by the turning, diverting, discontinuing, or stopping up of any such streets,—and in case of dispute, the amount of such compensation shall be ascertained and paid in the manner and according to the provisions contained in Act XXII. of 1847, which is hereby declared to be applicable to all claims for compensation made in respect of any acts done by the said Commissioners under the authority of this Act. Provided always, that it shall not be lawful for the said Commissioners, or any other person, to make or lay out any new street, unless the same, being a carriage road, be at least 50 feet wide, exclusive of the drains at the sides thereof, or not being a carriage road, be at least 20 feet wide, exclusive of the drains at the sides thereof.

Power to Commissioners to pave and water streets, &c. erect pumps, &c. and make convenient tanks, &c.

V. The said Commissioners, with the consent and approbation of the Governor of Bengal, shall pave, metal, and water such of the public streets existing in the said Town at the time of the passing of this Act, or at any future time, as they shall think fit; and it shall be lawful for the said Commissioners to excavate and provide convenient tanks or runs of water through the said Town, and to sink wells, and lay, erect, and place pipes, gutters, conduits and pumps in any of the said streets, and may remove and alter the same when and in such manner the said Commissioners shall think proper.

Power to Commissioners to purchase lands, &c. for the purposes of this Act.

VI. The said Commissioners, by and with the consent of the said Governor of Bengal, may, by agreement or in conformity with the provisions of Act XXII. of 1847, purchase or take absolutely or on lease, for such term as they may think fit, any water-works, streams of water, lands, fixtures or other property which the said Commissioners may deem it necessary to purchase or take for any work or purpose which they are required or authorized to do and execute under this Act, or the said Act No. X. of 1852, and when the said Commissioners take and purchase any lands for the purposes of this Act otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the powers so given, be subject to the provisions and restrictions contained in the said Act No. XXII.

of 1847; and the said Commissioners shall make to the owners and occupiers of and all other parties interested in any such lands taken for the purposes of this Act, full compensation for the value of the lands so taken, and for all damages sustained by such owners, occupiers and other parties, by reason of the exercise, as regards such lands, of the powers vested in the Commissioners by this Act; and the amount of such compensation shall be determined in the manner provided by the said Act No. XXII. of 1847, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the said Act No. XXII. of 1847 shall be applicable to determine the amount of any such compensation, and to enforce the payment or other satisfaction thereof.

Power to Commissioners to sell lands, &c.

VII. The Commissioners, by and with the consent of the Governor of Bengal, may sell or dispose of any lands or other property vested in or acquired by them under the powers herein, or in the said Act No. XXII. of 1847, contained, which it may appear to the Commissioners may be properly sold or disposed of; and for completing and carrying any such sale of lands into effect, the Commissioners may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct, and such conveyance shall be under the hands of three of the Commissioners, and under the seal of the Commissioners, and a receipt, under the hands of three of the Commissioners, shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received, and the money to arise from such sale shall be applied to such of the purposes of this Act as the Commissioners shall think fit.

Power to Commissioners to improve and cleanse or to discontinue drains, &c.

VIII. The said Commissioners may from time to time, as they shall see fit, widen, deepen, embank, alter, arch over, amend, clean and scour out all or any of the sewers or drains within the said Town as may be necessary, and also cleanse and drain off into any sewers or drains, and fill up and level or otherwise abate all stagnant pools, ditches, tanks and other receptacles of foul water and filth existing within the said

Town, whether the same be the private property of any person or persons or otherwise, and the said Commissioners, if they shall think fit, may take up, stop, fill in, and discontinue any sewers or drains which they shall deem useless or unncessary; Provided always that the expenses incurred in respect of any such works done or executed on the private property of any person, if not defrayed by such person on demand thereof, may be recovered by distress and sale of the goods and chattels of such person, and any two of the said Commissioners may issue their warrant of distress accordingly.

Power to Commissioners to enter, examine, and lay open houses, lands, &c. for that purpose. Compensation in certain cases.

IX. Every Commissioner and the Surveyor to the Commissioners, with such subordinate Officers or persons as they may require shall, when it shall be necessary or convenient for the purpose of making any survey or examination of any sewers or drains, or of making or repairing or cleansing any sewers, drains, or works within the said Town, or of carrying into execution any of the powers entrusted to the Commissioners by this Act, or Act No. X. of 1852, have full power and authority, at all reasonable hours in the day time, to enter, examine, and lay open, or to direct their subordinate Officers to enter, examine, and lay open, any house, building or other erection, or any lands, without being liable to any action at law or suit in Equity, or any other legal proceedings or molestation whatsoever for or on account of such entry, examination, or works, or of anything done or to be done in any part of such house, building, erection, or land in pursuance of this Act; Provided always, that except in cases of emergency, none of the persons above mentioned shall enter, examine or lay open any house, building or other erection, or lands which may be occupied at the time, unless with the consent of the occupier thereof without perviously giving the said occupier twenty-four hours' notice of their intended entry and of the object thereof; Provided also, that compensation shall be made for any damage occasioned by such entry and works to all persons other than the owners and occupiers of any land or building in respect of which any private drain or sewer, or the state of drainage shall be inspected, cleansed, or repaired, and other than the owners or occupiers of any premises where any nuisance may exist, and other than the person who may have caused such nui-

sance; and provided also, that in case no nuisance shall be found to exist in or on the house, building or other erection, or lands so entered, examined and laid open as aforesaid, the said Commissioners shall, out of the rates and taxes aforesaid, cause the said house, building, or other erection, or lands, to be restored to the same state and condition in all respects as the same were in before they were so entered, examined, or laid open.

Power to Commissioners in case of ruinous or dangerous buildings.

X. If any house, building, or wall, or anything affixed thereon, within the limits of the said Town, be deemed by the Commissioners or their Surveyor to be in a ruinous state, or likely to fall, and also dangerous to passengers or the occupiers of neighbouring buildings, such Surveyor shall immediately cause a proper board or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such house, building, or wall, or other thing, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or other thing, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such house, building, wall, or other thing, within the space of three days after such notice has been given or put up as aforesaid, and complete the same as speedily as the nature of the case will admit, the said Commissioners shall, with all convenient speed, cause all or so much of such house, building, wall, or other thing, as shall be in a ruinous condition, or likely to fall, and also dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of putting up every such fence, and of taking down, repairing rebuilding or securing such building, wall, or other thing, shall be paid by the owner thereof, if such owner can be found within the said limits; and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress on the goods and chattels of the owner of the said house, building, wall, or other thing, and any two Commissioners may issue their warrant of distress accordingly.

XI. If any such house, building, wall, or other thing, or any part of the same, be pulled down by virtue of the powers aforesaid, the Commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house, building, wall, or other thing, and the Commissioners shall restore any overplus arising from such sale to the owner of such house, building, wall, or other thing, on demand; nevertheless the Commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Power to Commissioners to make canals, aqueducts, sewers, drains, &c.

XII. The said Commissioners, by and with the consent of the Governor of Bengal, may construct, make and lay, or cause to be constructed, made, and laid, such reservoirs, canals, aqueducts, channels, tanks, sewers, drains, bridges, banks, conduits, machinery, engines, waste-gates, stop-gates, stop-cocks, sluices, tunnels, water-pipes, and other works, as shall in their opinion, be necessary and proper for obtaining water and supplying the same to the said Town, and for the effectual draining and cleansing of the said Town, and for the properly flushing and cleansing out such sewers in, under, or across all or any of the streets therein, whether dedicated to the public use or not, and if needful through and across all under-ground cellars, and vaults, which they may find under any of the said streets, doing as little damage as may be; and also to cause such and so many rings and openings to be made or left in the sides of the said sewers, as will be sufficient for the making or branching any drain or drains from any or all of the houses built, and which may probably be built, adjoining or near thereto, into any of the said sewers, as the said Commissioners shall think necessary for that purpose; and in case it shall be found necessary for completing any of the aforesaid works to build, carry, or continue the same in, into, through, or over any enclosed lands, or other place not being a public way, it shall be lawful for the said Commissioners

to build, carry, or continue the same in, into, through, or over the said lands or other places accordingly, and the said Commissioners shall cause such sewers to communicate with and empty themselves into any public river, stream, canal, or watercourse, whether within or without the said Town, or shall cause the refuse from such sewers to be conveyed by an appropriate channel to the most convenient site for its deposit, collection and sale, and its application as manure for agricultural purposes or otherwise, as they shall deem most expedient, but so that the same shall in no case become a public nuisance or annoyance to the neighbourhood.

Power to Commissioners when constructing drains and aqueducts without the jurisdiction of Supreme Court.

XIII. For the purpose of constructing any aqueducts for bringing water to the town of Calcutta from any place without the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature, or for the purpose of making sewers or drains to communicate with or empty themselves into any public sewer, lake, stream, canal, or water-course without the said limits, it shall be lawful, whenever a plan for any such aqueduct, sewer, or drain shall have been approved by the Governor of Bengal, for every Commissioner, and for the Surveyor and Secretary to the Commissioners, with such Assistants as they may require, to exercise, in the construction of such aqueduct, sewer, or drain throughout the line of country through which the said aqueduct, sewer or drain is to run, all the powers which by this Act it is lawful for them to exercise within the said local limits, and which may be necessary for the construction of such aqueduct, sewer, or drain, without being subject to any action or molestation whatever for so doing; and it shall also be lawful for any Magistrate of any district through which the said aqueduct, sewer, or drain is to run, in furtherance of the construction of such aqueduct, sewer, or drain, to do such acts within the limits of his own district as it is by this Act lawful for a Magistrate of the Town of Calcutta to do, in furtherance of any work to be executed by the said Commissioners within the said local limits.

Power to Commissioners to execute works by contract.

XIV. It shall be lawful for the said Commissioners, instead of executing any of the works which by this Act they are authorized to execute by themselves, their servants, and assistants, to execute

the same by contract with any individual or company who may be willing to undertake the same, and in that case it shall be lawful for such individual or company to exercise and enjoy all the powers and privileges which by this Act it is lawful for the said Commissioners to exercise and enjoy in the execution of any such works. Provided always, that no Commissioner, or Officer or servant of the Commissioners, shall be in any wise concerned or interested in any contract or work made with or executed for the Commissioners, and if any such Commissioner, or Officer, or servant, be so concerned or interested, or shall, under color of his office or employment, exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, fees, and allowances, he shall be incapable of afterwards holding or continuing in the office of Commissioner, or any office or employment under the Commissioners, and shall forfeit and pay the sum of Company's Rupees five hundred, which may be recovered by any person, with full costs of suit, by action of debt.

Power to Commissioners to contract for supply of water, and to grant leases for that purpose.

XV. The said Commissioners may, with the consent and approbation of the said Governor, contract and agree with any person for supplying the said Town, or any part thereof, with water, and may also, with the like consent and approbation, grant to any person contracting to supply the said Town, or any part thereof, with water, a lease, for any term not exceeding twenty-one years, of any water-works, machinery, streams, waters, lands, tenements, easements, rights, privileges, and advantages, belonging to or acquired by, or which may belong to or be acquired by or be vested in the said Commissioners, under any of the powers or authorities in this or any other Act contained, so as to enable such person or persons so contracting the more effectually and efficiently to procure and supply water in pursuance of any such contract or agreement; and every such lease so to be granted by the said Commissioners may be made subject to such conditions and stipulations as to the supplying water, for the purposes of this Act, or any of them, as may be agreed upon between the respective parties thereto. Provided always, that no lease or contract made in pursuance of the powers hereinbefore contained shall be valid or effectual, for any purpose whatsoever, unless the said Governor's approval of the

same shall be testified by writing, endorsed on such lease or contract, under the hand of the Secretary to the Government of Bengal.

Power to Commissioners to enter on lands adjacent to works, &c.

XVI. It shall be lawful for the said Commissioners, their Secretary, Surveyor, or other Officer, subject to the restrictions in this Act contained, to enter upon the lands of any corporation or person adjoining to, or being within the distance of one hundred yards of the works by this Act authorized to be made, or any part thereof, for the purpose of depositing upon such lands, or any part therof, any soil, gravel sand, lime, brick, stone, or other materials, or for any other purposes connected with the formation of the said works, without making any previous payment, tender, or deposit, the said Commissioners, their Secretary, Surveyor, or other Officer, doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation or temporary damage of the said lands to the owners and occupiers thereof, from time to time, and as often as any such temporary occupation shall be taken or any such temporary damage done, and making compensation to the owners also for the permanent injury (if any) to such lands; and in case the parties differ respecting the amount of the compensation, or the respective shares of several claimants of compensation, then and in every such case the said disputes respectively shall be settled and adjusted by arbitration, or by the verdict of a Jury, summoned and assembled in manner provided in Act No. XXII. of 1847. Provided always that before the said Commissioners make any such temporary use as aforesaid of the lands adjoining or laying near to the said works, they shall give fourteen days' notice of such their intention to the owners and occupiers of such lands, and shall separate and set apart by sufficient fences so much of the lands as shall be required to be used as aforesaid from the other lands adjoining thereto.

Commissioners when executing works to provide convenient roads, drains, &c. for use of adjoining lands when present roads, &c. are stopped, &c.

XVII. The said Commissioners, when executing any works hereby authorized to be made, shall, at their own expense, make and provide a sufficient number of convenient roads, ways, watering-places, wells, water-courses, drains, and channels for the irrigation and for the use of the

adjoining lands, and for irrigating the same in those parts where the present roads, ways, watering-places, wells, water-courses, drains, and channels, shall and may be taken away or interrupted, injured, or rendered inconvenient or useless by reason of the execution of the said works, and in case of any difference arising between the said Commissioners and the owners of such adjoining lands, such difference shall be settled by arbitration, or by the verdict of a Jury summoned and assembled in manner provided in Act No. XXII. of 1847.

Power to Commissioners to make compensation out of rates, &c.

XVIII. The said Commissioners shall make full compensation out of the rates and taxes to be levied by them to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, or their Officers or servants, under and by virtue of this Act.

Power to Commissioners to prosecute in certain cases.

XIX. It shall be lawful for the said Commissioners to direct any prosecution before any Court or Justice of the Peace for any public nuisance whatsoever which shall be permitted, suffered, or committed within the said Town, and to order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, and to direct and order the expenses of such prosecutions and other proceedings to be paid and borne by and out of the funds placed at their disposal under the provisions of this or any other Act.

Power to Commissioners to prefer bill of indictment in certain cases.

XX. It shall be lawful for the said Commissioners, if they shall not think fit to take any other proceedings prescribed by this Act, to prefer any bill of indictment or information, or to take any other proceedings against any person who shall obstruct or molest the said Commissioners, or their Secretary, Surveyor, or other Officer or servant, or any workman or other person employed by them in the performance and execution of their or his duty, under or by virtue or in consequence of this Act, or who shall steal, take, or carry away, or wilfully deface or injure any property, article, or thing belonging to the said Commissioners, and in every such case it shall be sufficient to state generally the property, article, or thing, in respect of

which such proceeding shall have been taken, to be the property of the said Commissioners.

Power to Commissioners to arrest unknown offenders without warrant.

XXI. It shall be lawful for any of the Commissioners, their Secretary, Surveyor, Insepectors, Overseers, or any servants or persons employed by them and for any Inspector of Police or Policeman employed in the said Town, and such other person or persons whom he or they shall call to his or their assistance, without any summons or warrant, or other authority than this Act, to seize and detain any unknown person who shall commit any offence against the provisions of this Act, and to take him immediately to a Police Station, where he shall be detained in default of Bail until he can be taken before any Justice of the Peace, who is hereby required to proceed and act with respect to such offender according to the provisions of this Act.

Power to Commissioners to enter and inspect bazars, slaughter-houses, &c. and to seize unwholesome articles exposed for sale.

XXII. The Commissioners, or any one of them, or any person appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall, or place, kept or used for the sale of butcher's meat, poultry, fish, or vegetables, or as a slaughter-house, and may examine any animal, carcase, meat, poultry, game, flesh, fish, or vegetables which may be therein, and in case any animal, carcase, meat, poultry, game, flesh, fish, or vegetables appear to be intended for the food of man, and to be unfit for such food, may seize, remove, and destroy the same at the expense of the owner thereof, or the owner, occupier, or farmer of any such public market, bazar, or slaughter-house, or private shop or stall within the Town, wherein the same shall be exposed or allowed to be exposed for ssle.

Power to Commissioners to remove obstructions in streets.

XXIII. The Commissioners or their Surveyor shall have full power and authority to remove or order the removal of any wall, fence, rail, post, or other obstruction or encroachment in any street, or in or over any drain, sewer, or aqueduct within the said Town, whether the proprietary right to such street, drain, sewer, or aqueduct shall be in dispute or not; Provided always that nothing in this Act shall be construed to give the said

Commissioners or their Surveyor power to remove such wall, fence, or other obstruction after the decree or order of any competent Court has declared the land, walled, fenced, or railed in, to be private property.

Power to Commissioners to fill up unwholesome tanks.

XXIV. When any private tank, or low marshy ground, shall appear to the Commissioners to be offensive to the neighbourhood or unwholesome, it shall be lawful for the said Commissioners to require, by notice in writing, the owner thereof to cleanse or fill up the same, and if the said tank shall remain uncleansed or not filled up for seven days after such notice, it shall be lawful for the said Commissioners to enter into and upon the adjoining lands, and to cleanse or fill up the said tank as they shall think fit, and the expense incurred thereby shall be paid by the owner of such tank, to be recovered in manner hereinafter mentioned.

Power to Commissioners to affix boards or plates to houses.

XXV. The Commissioners may affix on or to the wall of any house or compound, or in or to any wall within the said Town, as they shall think fit, any board or metal plate to indicate the name of the street in which such house, compound, or wall is situate, or any lamp for the purpose of lighting the street.

Power to Commissioners to kill dogs.

XXVI. It shall be lawful for the said Commissioners or their subordinate Officers, as they shall think fit, to kill and destroy, or to order to be killed and destroyed, all dogs that may be found loose in the said streets, and not accompanying their owners or some person in charge of them.

Commissioners to repair streets, &c.

XXVII. The said Commissioners shall, so far as the funds at their disposal will admit, keep in good and sufficient repair every street now or at any future time existing in the said Town.

Commissioners to take precautions when streets and drains under repair.

XXVIII. When any of the streets, sewers, or drains in the said Town are being made, or shall be under repair, the Commissioners or their Surveyor or other subordinate Officer, shall take proper precautions against danger by shoreing up and protecting the adjoining houses, and shall fix and place, or cause to be fixed and placed such and so many bars, chains, or posts across or in any of the said streets to prevent the passing

and repassing of carriages, carts or other vehicles, cattle or horses, during the time of such works and repairs being carried on as shall be necessary, and the said Commissioners and their said Surveyor shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be well and sufficiently lighted during the night to prevent accidents.

Commissioners to light the Town.

XXIX. The said Commissioners so far as the funds at their disposal will admit, shall provide lamps for lighting such parts of the said Town as the said Commissioners shall consider to require the same, and shall keep the said lamps in fit order for public use, and shall keep and employ a sufficient number of persons to cleanse, prepare, repair, and light the same, and shall also from time to time, as shall be required, increase or otherwise alter the number and situation of the said lamps, as to them shall appear necessary for the lighting of the said town.

Commissioners to keep town clean, remove dirt, &c.

XXX. The said Commissioners and their said Surveyor and other Officers shall cause all the public streets of the said Town, together with the foot-pavements or foot-paths therein, from time to time to be properly swept and cleansed, and all dust, dirt, soil, ashes, rubbish and filth of every sort which may be found thereon to be collected and removed therefrom at convenient hours and times and shall cause all or any of the privies, cesspools, and drains within the said Town to be cleansed and emptied in a sufficient and proper manner by the owners or occupiers of the premises; and the said Surveyor, or other subordinate Officer of the Commissioners, shall give such orders and directions to the owners and occupiers aforesaid, as to the said Surveyor or other Officer as aforesaid, acting under the orders and control of the said Commissioners, shall appear proper and necessary, and the said Commissioners may, in their discretion, order and direct where, and in what places, and how, and in what manner, the dust, dirt, soil, night-soil, ashes rubbish and filth collected in the said Town shall be deposited and disposed of.

Owners to prevent effluvia from drains, &c.

XXXI. The owners of any private drains in the said Town shall by providing proper traps or other coverings, or by ventilation, or by such other ways

and means as shall be practicable for that purpose, prevent as far as possible the effluvia of sewers and drains from exhaling from gully-holes, gratings, or any other openings whatsoever of drains or sewers in streets or other places, and in case the owner of any private sewer or drain shall neglect or delay so to do, the Surveyor of the said Commissioners shall give him notice to prevent as far as possible the effluvia of such sewer or drain from so exhaling, and if the same shall not be done by such owner within ten days after such notice shall have been given to him, the said Surveyor shall forthwith provide and apply proper traps or other coverings, or such other means as aforesaid, so as effectually to prevent such effluvia from exhaling, and the expense incurred thereby shall be paid by the owner of such sewer or drain, to be recovered in manner hereinafter mentioned,

Commissioners to issue certificates prohibiting improper burial-places.

XXXII. If upon the representation of the Surveyor of the Commissioners, and after inquiry by such other ways and means as the Commissioners may think fit to direct, the said Commissioners shall certify, (such certificate to be published in the *Calcutta Gazette* and in one of the English and Bengallee newspapers respectively usually circulated within the Town,) that any burial-ground situated within the said town is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship within the Town is dangerous to the health of persons frequenting the same by reason of the state of the vaults or graves within the walls of or underneath the same, and that sufficient means of interment exist within a convenient distance from such burial-ground, church, or place of public worship, it shall not be lawful, after a time to be named in such certificate, to bury or permit or suffer to be burried any further corpses or coffin in, within, or under the ground, church or place of worship to which the certificate relates, except in so far as may be allowed by such certificate, and whosoever after notice of such certificate buries or causes, permits, or suffers to be buried any corpse or coffin contrary to this enactment, shall for every such offence be liable, on conviction before a Justice of the Peace, to a penalty not exceeding Company's rupees five hundred.

No vault or burial-place henceforth to be constructed without leave of Commissioners.

XXXIII. No vault or grave shall be constructed or made within the walls of or underneath any church or other place of public worship built in the said Town after the passing of this Act, and no burial-ground shall be made or formed within the said Town after the passing of this Act without the consent of the Commissioners first had and obtained, and whosoever shall bury or cause, permit, or suffer to be buried any corpse or coffin in any vault, grave or burial ground constructed, made, or formed contrary to this enactment, shall for every such offence be liable, on conviction before a Justice of the Peace, to a penalty not exceeding Company's rupees five hundred.

No writ to be sued out against them till after one month's notice, &c. action to be brought in three months; Commissioners may tender amends

XXXIV. No writ or process shall be issued out against or served upon any Commissioners or any Secretary, Surveyor, or other Officer or person whomsoever, acting under the direction of the Commissioners for any thing done or intended to be done under the powers of this Act, until the expiration of one month next after notice in writing shall have been delivered to him or left at his office or place of abode, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause, and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant, and every such action shall be brought or commenced within three calendar months next after the accrual of the cause of action, and not afterwards, and if any party shall have committed any irregularity, trespass, or other wrongful proceedings in the execution of this Act or by virtue of any power or authority hereby given, and if before action brought in respect thereof such party shall make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action when brought, and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings

shall be had as in other cases where defendants are allowed to pay money into Court.

Commissioners and their servants not to be personally liable when act done *bonâ fide*.

XXXV. No matter or thing done, or contract entered into by the Commissoners, or any one of them, or by any Secretary, Surveyor, or other Officer or person whomsoever, acting under the direction of the Commissioners, shall, if the matter or thing were done, or the contract were entered into *bonâ fide* for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever, and any expense incurred by any such Commissioners, Secretary, Surveyor, or other Officer or person acting as last aforesaid, shall be borne and repaid out of the funds under the control of the Commissioners.

Streets, drains, filth &c. the property of Commissioners as Trustees.

XXXVI. All the streets existing within the said Town at the time of the passing of this Act, and all parts of the said Town which shall hereafter become streets, and also the pavements, stones and other materials therein, and all erections and building materials, implements or other things provided for the said streets, by or under the authority of the Government of Bengal, or by the Magistrates of Calcutta, or by the said Commissioners, and also all Public sewers and drains within the said Town, together with all works, materials and things therewith connected and belonging, existing in the said Town at the time of the passing of this Act, or which shall hereafter be constructed and made therein by the said Commissioners or otherwise, and also all canals, aqueducts, conduits, tunnels, water-works, cisterns, pumps, pipes, tanks, reservoirs and wells which now are or shall hereafter be provided or lawfully applied to public use, and which are not the property of any private person, together with all buildings, engines, works, materials and things therewith connected, existing in the said Town at the time of the passing of this Act, or which shall hereafter be constructed and made therein at the costs of the said Commissioners or otherwise, and also all lands surrounding and belonging to public tanks and slips of ground alongside of any street, drain or aqueduct not the property of any private person, and also all lands belonging to the late Lottery Committee and not

legally appropriated, and also all dirt, dust, dry and liquid filth, ashes and rubbish to be collected from the streets, houses, privies, sewers and cess-pools and elsewhere within the said Town shall be the property of and are hereby vested in the said Commissioners as Trustees for the purposes of this Act.

Act not to exempt parties guilty of nuisance from prosecution or action.

XXXVII. Nothing in this Act contained shall be construed to render lawful any act or omission on the part of any person which is, or but for this Act would be deemed and adjudged to be a nuisance at common Law, nor to exempt any person guilty of a nuisance at common Law, from prosecution or action in respect thereof. Provided always, that if any person convicted of an offence under this Act, shall have paid the whole amount adjudged to be paid under such conviction, and the costs thereof, or shall have suffered imprisonment in respect of such offence, in every such case he shall be released from all further or other criminal proceedings for the same offence.

Parties may make branch drains into public sewers, as Surveyor of Commissioners shall order. Penalty for offences against this Section.

XXXVIII. It shall be lawful for any person, at his own expense, to make or branch any drain into any of the sewers vested in the said Commissioners, or authorized to be made by virtue of this Act, or otherwise acquired by the said Commissioners, such drain being made of such a size and in such a manner of communication in all respects as the said Surveyor of the said Commissioners shall direct, and for that purpose to take up and remove with the permission of the Commissioners so much of the pavement and other materials of any street as may be required, unless the said Commisssioners shall consent and agree, which they are hereby authorized to do, to form so much and such portion of such drain as shall lead from the point of communication in such sewer to the extremity of such street, and in case any person shall make or branch any drain into any of the said sewers so vested in the said Commissioners, or authorized to be made, under and by virtue of this Act, of a different size or in a different manner and form of communication than shall be directed or appointed by the said Surveyor, every person so offending shall, for every such offence, forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding fifty rupees,

and in default of payment shall be imprisoned for any period not exceeding one month, and the said Justice shall order the said person so offending to alter such drain as required by the said Commissioners within ten days, and in default the said Commissioners shall, at the expense of the maker of such drain, alter or destroy the same as they shall think fit, and in case the expense of making such alteration or destruction shall not be paid by the owner or maker of such drain, the expense incurred thereby shall be recovered in manner hereinafter mentioned.

Commissioners may contract with owners to make such drains at their expense.

XXXIX. It shall be lawful for the said Commissioners to contract and agree with the owners of any houses or other tenements within the said Town, that any drains required to be constructed and made by such owners shall be constructed and made by the Surveyor of the said Commissioners, and the cost price of making such drains, (as certified by the said Surveyor of the said Commissioners,) shall be repaid by such owners to the said Commissioners, and in default of such payment the same may be recovered in the manner hereinafter provided.

Notice to be given to Commissioners before any new sewer or building is commenced to be built, as Surveyor shall direct.

XL. Before beginning to dig or lay the foundations of any new house, building, or wall within the said Town, or to rebuild any house, building, or wall therein, contiguous or near to any street and not being within the compound wall of any premises, and also before making any sewer or drain for the purpose of draining water directly or indirectly from any land or tenement into any sewer under the jurisdiction of the said Commissioners, fourteen clear days' notice in writing shall be givin to the Secretary to the said Commissioners by delivering the same to him or leaving it at his office by the person intending to build or rebuild such house, building, or wall, or to make such sewer or drain; and every foundation of any such house, building, or wall, and the drains within the same, shall be laid at such level as the Surveyor of the said Commissioners shall direct, and so as that no part of the said house, building, or wall shall project or encroach into or over the adjoining street, drain, or aqueduct, and so as that the said drains may be properly built with reference to the adjoining

public drains, and every such branch drain shall be made in such direction, manner, and form, and of such materials and workmanship as the said Surveyor shall order, and the building or rebuilding of any such house, building, or wall shall be under the survey and control of the said Commissioners and their Surveyor so far as may be necessary to prevent any projection or encroachment in or over any street, drain, or aqueduct, and to insure that the level of the drains within such house, building, or wall shall be properly built with reference to the public drains; and in default of such notice as aforesaid, or if such building or drain shall be begun, or made without, or in any respect contrary to, any order of the said Surveyor, or of the provisions of this Act, it shall be lawful for the said Commissioners to cause such building to be demolished, and to cause such drain to be re-laid, amended, destroyed, or re-made as the case may require, and to cause the expenses thereof to be levied and re-paid to them from and by the owner thereof in manner hereinafter provided.

Penalties for certain offences in the streets.

XLI. Every person upon conviction before any Justice of the Peace, on the testimony of one or more credible witnesses, shall be liable to a penalty of not more than fifty rupees, or in default of payment thereof, to imprisonment, with or without hard labour, for any term not exceeding one month, who, within the limits of the said Town, shall commit any one of the following offences; (that is to say,)

For throwing dirt, &c. on streets.

1. Every person who shall throw or put, or cause or order or allow his servants to throw or put, or from whose permises shall be thrown or put, any dirt, dung, mud, dust, ashes, garden or stable refuse, or rubbish of any kind, or the carcase of any dog or other animal, or any flesh or other part of an animal, or any animal matter, upon any of the public streets, except between the hours of midnight and seven in the morning.

For throwing bottles, glass, &c.

2. Every person who shall throw or put, or cause or allow to be thrown or put, or from whose premises shall be thrown or put, any broken bottles, glass, china or crockery-ware upon or into any street, drain or aqueduct.

3. Every person who shall keep, or allow to be kept, for more than twenty-four hours, any dirt, dung, mud, dust, bones, ashes, night-soil, or other rubbish of a perishable and noisome kind in or upon any house, out-house, yard, or ground occupied by him.

For keeping dirt, &c. in houses.

4. Every person being the owner or occupier of any private tatty, drain, sewer, cesspool, tannery, or other receptacle of filth, who shall neglect or refuse to keep the same in a clean and proper state, or to employ proper means to remove any noisome smell or the filth therefrom, or who shall expose the contents of such privy to the view of the passers by in the street.

For neglecting to keep drains, &c. clean.

5. Every person being the owner or occupier of any house, hut, building, or lands, whether tenantable or otherwise, who shall suffer the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation.

For allowing house or ground to be in a filthy or unwholesome state.

6. Every person who shall cause or allow the water of any sink, sewer or drain, or other offensive liquid matter belonging to him, or running through or being on his land, to run, drain, or be carried into or upon any of the streets, tanks, aqueducts, or reservoirs belonging to the Commissioners, or who shall commit or cause any act whatsoever whereby the water provided for the domestic use of the inhabitants of the Town shall be in any way fouled or corrupted, or who shall throw or put, or cause or order or allow his servants to throw or put, or from whose premises shall be thrown or put, any dirt, dung, mud, dust, ashes, night-soil, garden or stable refuse or other rubbish, into any of the public sewers or drains, or into any reservoirs, tanks, aqueducts, or other water-works belonging to the Commissioners.

For allowing offensive liquids to drain into tanks or water-works.

7. Every person who shall have or keep any common tatty, privy, or urinal, on any ground owned or occupied by him within the Town, without a licence first had from the Commissioners who are hereby authorized to grant the same under the hand of their Secretary; such licence shall be granted for one year, and shall

For keeping common privy without licence.

be renewed or not every year according to the discretion of the Commissioners.

For keeping common privies filthy.

8. Every person being the owner or farmer of any licensed tatty, privy, or urinal within the said Town who shall suffer such tatty, privy, or urinal to be kept in a filthy and unclean state, or shall neglect to employ proper means for cleaning and regulating it.

For destroying lamps or street-boards, &c.

9. Every person who shall wantonly or wilfully destroy, injure, or deface any of the lamps or lamp-posts in the said streets, or extinguish any light therein, or abstract or take away from any of the said lamps any oil or other matter or thing therein, or any part thereof, without the order of the said Commissioners or of their said Surveyor, or who shall wantonly or wilfully destroy, injure, or deface any board bearing on it the name of any street or the number of any building or land within the said Town, or any notice of the said Commissioners fixed or posted up in any place.

For injuring streets, taking pavements, &c.

10. Every person who shall displace, take up, or make any alteration in the pavements, flags, stones, fences, posts, or other materials of any foot or carriage-way in any street, without the consent in writing of the said Commissioners or of their said Surveyor, or who shall cause any obstruction to or make any encroachments upon any street or upon any sewer, drain, aqueduct, or space of ground alongside a street, drain or aqueduct,

For injuring, &c. any boards, &c. erected by Commissioners.

11. Every person who shall take down or remove any fences or boards, or any bars, chains, or posts erected by the said Commissioners, or extinguish any light attached to or connected with the said fences, boards, bars, chains, or posts without the authority or consent of the said Commissioners or their Surveyor.

For carrying filth through streets except at certain hours.

12. Every person who shall carry or cause to be carried in carts, pots, handies, or other vessels any night-soil or urine, or other noisome or offensive matter through the public streets except between the hours of midnight and eight in the morning, or who shall carry or cause to be carried any night-soil or urine in such manner that any offensive smell or drainings issue therefrom, or

who shall place or set down in any public place any vessel containing night-soil or urine, or who shall carry or cause the same to be carried in any other than covered carts or vessels or who shall throw or deposit any night-soil in or upon any street.

For bathing in a public street, &c.

13. Every person who shall bathe or wash any part of his person in any public street, or upon or in any of the tanks, reservoirs, aqueducts, water-works, or drains belonging to the Commissioners except in such of the said tanks, reservoirs, aqueducts, water-works, or drains as the Commissioners shall set apart for that purpose.

For washing animals, &c. in tanks or aqueducts.

14. Every person who shall wash or cause to be washed any horse, dog, or other animal, or any cloth, wearing apparel, leather, or skin of any animal, or any foul or offensive thing on any street, in or near any tanks, reservoirs, aqueducts, water-works, or drains belonging to the Commissioners, or on or in the road adjoining thereto, except in such of the said tanks, reservoirs, aqueducts, water-works, or drains as the said Commissioners shall set apart for that purpose.

For indecently exposing person.

15. Every person who shall wilfully and indecently expose his person, or who shall commit nuisance in any of the public streets.

For allowing water to flow from houses or pipes on public streets, and for refusing to alter the direction of water-spouts, &c.

16. Every person being the owner or occupier of any house, hut, or building within the Town which has a drain on the same side of the street wherein such house, hut, or building is situate, who shall cause or allow any water, or liquid matter from or on such house, hut, or building to flow or be carried through pipes, gutters, water-spouts or other means on any part of any public street, or on any place but his own land or the public drain, or who shall refuse or neglect to remove or alter the direction of any such pipe, gutter, or water-spout after the expiration of ten days' notice for that purpose given by the Surveyor of the said Commissioners; and any person being the owner or occupier of any house, hut, or building in the said Town, which has not a drain on the same side of the street as such house, hut, or building, who shall convey the water from the said house, hut, or building in or upon any pub-

lic street, through pipes or water-spouts the mouths of which shall be higher than two feet from the ground.

For projections over streets, &c.

17. Every person being the owner or occupier of any house, hut, or building, who shall cause or allow any verandah, balcony, sunshade, or other part of any house, hut, or building to overhang and project into any public street or public place at a height of less than eleven feet from the level of the roadway or to a distance exceeding four feet from the house, and who shall refuse or neglect to take down and remove such verandah, balcony, sunshade or other projection after the expiration of fifteen days' notice for that purpose given by the Surveyor.

For projections over streets after passing of this Act.

18. Every person who shall, after the passing of this Act, erect or set up any verandah, balcony, sunshade, or other projection of any kind which may overhang and project into the road at any height and to any distance without licence first obtained from the Commissioners under the hand of their Surveyor.

For washing carriages in public streets.

19. Every person who shall wash or cleanse, or cause or order or allow his servants to wash or cleanse any carriage or other conveyance, or horse or other animal, or whose carriage or other conveyance, or horse or other animal shall be washed or cleansed in any public street or other public place.

For setting up boards and scaffolding in streets without leave, &c.

20. Every person who shall place, set up, or build in any public street within the Town any board, scaffolding, post, bar, rail, hoards, or other thing by way of inclosure for the purpose of making mortar or of depositing, sifting, screening, or slackening any bricks, stone, lime, sand or any other materials for building or repairing any house or other building, or for any other purpose whatsoever without licence first obtained from the Commissioners, who are hereby authorized to grant such licence, under the hand of their Surveyor, or who shall set up or build the same in any other manner, or allow or cause the same to be continued for any longer time than shall be allowed or expressed in such licence, or who shall cause or allow any of the building materials or other things to extend beyond the distance expressed in the licence.

For lighting obstructions, when allowed.

21. Every person who shall have been allowed by the Commissioners to set up any scaffolding or deposit any bricks, stone, lime, sand, or other building materials on the public streets, and who shall not cause a light to be set up every night from sunset to sunrise on every such erection or obstruction.

For erecting obstruction in streets whether proprietor's right be in dispute or not.

22. Every person who shall build any wall, or erect any fence or obstruction, or set up any post so as to be an obstruction in any street, whether the proprietary right to such street shall be in dispute or not.

For exposing articles for sale in public streets, &c.

23. Every person who shall set out, place, or expose, or cause to be set out, placed, or exposed, whether for sale or otherwise any stall, booth, show-board, basket, cask, or meat, fish vegetable, fruit, groceries, or any other merchandise or goods of any kind, or any stone, bricks, earthen-ware, hard-ware, timber, or any other thing whatsoever, whether animal, vegetable, or mineral, in or upon any of the public streets or on or over any drain, sewer or aqueduct.

For sifting or cleansing grain, &c. in public streets.

24. Every person who shall sift or clean, or cause to be sifted or cleansed, or exposed for any other purpose any cotton, grain, seeds, rice, coffee, onions, or any other vegetable matter whatsoever, or who shall sift brickdust or lime on any public street, or on or over any public drain, sewer, reservoir, or aqueduct.

For leaving vehicles in public streets, &c.

25. Every person who shall keep or leave any carriage, cart, hackery, or other conveyance, or any horse, ox or other animal, on any public street or on or over any public drain, sewer, or aqueduct, so as to cause an obstruction in the streets or public thoroughfare.

For making fires and discharging fire-arms and fire-works in streets.

26. Every person who shall set fire to or burn any straw, hay, seeds, timber, or any other matter, or light any bonfire or fire in any public street, or discharge any kind of fire-arms or any air-gun, or let off or throw any kind of fire-works or send up any fire-balloon any where in the said Town.

27. Every person who shall beat or sound any musical or sounding instrument, or any brass or metal utensil in the public streets, except at such times and places as shall be from time to time appointed by the Chief Magistrate upon application made to him for that purpose.

For sounding musical instruments or metals in streets.

28. Every person, other than the said Commissioners or their servants, who shall affix any bill, notice, or any paper against or upon any building, wall, fence, or board, or who shall write upon, deface, or mark with chalk, or paint, or in any way whatsoever, any building, wall, fence, or board without the consent of the owner or occupier thereof.

For affixing bills or otherwise defacing houses, &c.

29. Every person who shall expose or allow to be exposed within the limits of the said Town any animal, carcase, meat, poultry, game, flesh, fish, or vegetables in a decayed and unwholesome state and unfit for the food of man.

For exposing unwholesome food, &c.

30. Every person who shall slaughter or cut up any beast, sheep, swine, or other animal in any public street, or so near thereunto that any blood or filth or other matter from the same shall flow or be carried into such street.

For slaughtering in streets.

31. Every person being the owner, occupier, or farmer of any public market, bazar, or slaughter-house, who shall keep or allow the same to be kept in a filthy and unclean state, and shall refuse or neglect, after the expiration of two days' notice to be given by the said Commissioners or their Surveyor, Overseer, or Bazar Inspector, to cause such market, bazar, or slaughter-house to be properly cleansed and the filth thereof removed.

For keeping a market unclean, &c.

32. Every person who shall keep in any street, house, outhouse, yard, or ground within the Town, any swine or a flock of more than twenty sheep, goats, or horned cattle.

For keeping swine, &c. in the Town.

XLII. It shall be lawful for the said Commissioners, with the concurrence of the Chief Magistrate, to set apart, at their discretion, certain of the public ghauts on the Calcutta bank of the River Hooghly for the purpose of being used as bathing places,

Bathing places at the river to be set apart.

and every person who shall by landing goods or merchandise at the said ghauts, or who shall by anchoring or otherwise fastening or keeping boats or vessels of any description in any manner obstruct or incommode the bathers at any such ghaut, shall be liable, on conviction before a Justice of the Peace, to a fine not exceeding fifty rupees, or, at the discretion of such Justice, to imprisonment for a period not exceeding one month.

Commissioners and Chief Magistrate, may allow illuminations on street.

XLIII. It shall be lawful for the said Commissioners, with the concurrence of the Chief Magistrate, at their discretion, to grant a licence to any person permitting him to put up posts on the side of any public street for the purpose of affixing thereon lamps to illuminate the said street on occasions of festivals or ceremonies; and any person who shall put up any such post, or affix any such lamp for any purpose, without licence first had and obtained from the Commissioners under the hand of the Secretary or Surveyor, shall, on conviction thereof before a Justice of the Peace, be liable to a fine not exceeding one hundred rupees, and in default of payment, shall be imprisoned for any period not exceeding one month.

Slaughter-houses to be registered; penalty for not registering.

XLIV. Every person being the owner, occupier, or farmer of any public market, bazar, or slaughter-house within the Town, shall cause such market, bazar, or slaughter-house to be registered at the office of the Commissioners, with a general description of the place, size, number of shops and stalls, and kinds of goods therein exposed for sale; and if he shall refuse or neglect so to register the same, he shall forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding one hundred rupees, and in default of payment thereof, shall be liable to be imprisoned for any period not exceeding one month.

Penalty for making and using any new slaughter-house within the Town without the consent of Commissioners, &c.

XLV. No place shall be used or occupied as a slaughter-house, within the said Town, which was not in such use and occupation at the time of the passing of this Act, and has not so continued ever since, unless and until a licence for the erection thereof, or for the use and occupation thereof, as a slaughter-house has been obtained from the

Commissioners, and every person who without having first obtained such licence as aforesaid, shall use as a slaughter-house any place within the said limits not used as such at the time of the passing of this Act, and so continued to be used ever since, shall for every such offence forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding one hundred rupees, and in default of payment shall be liable to be imprisoned for any period not exceeding one month.

Owners of bazars, tannories, &c. shall have sufficient drains.

XLVI. Every person being the owner, occupier, or farmer of any market, bazar, tannery or slaughter-house within the said Town is required to have such a number of drains therein as shall be considered sufficient by the Commissioners, and shall have all the floors and drains paved with stone or burnt brick, and he shall have also therein a supply of water sufficient in the judgment of the Commissioners to keep the whole place in a clean and wholesome state at all times, and in default thereof for four weeks after notice given to him by the Surveyor, Overseer, or Inspector of Markets that such market, bazar, tannery, or slaughter-house is defective in any of the said particulars, shall forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding one hundred rupees, and in default of payment shall be liable to be imprisoned for any period not exceeding two months.

Penalty for establishing any new tannery, &c. in Town.

XLVII. Any person who, after the passing of this Act, shall establish any new tannery or other manufactory within the said Town, from which an offensive or unwholesome smell may arise, shall forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding two hundred rupees, and in default of payment shall be liable to be imprisoned for any term not exceeding two months,

Doors in future to be made to open inward, and doors opening outwards may be altered by the Commissioners.

XLVIII. All doors and gates put up after the passing of this Act within the limits of the said Town, and which open upon any street, shall be hung or placed so as not to open outwards; and if any such door or gate be hung or placed so as to open outwards on any street, the occupier of such house, building, yard or land shall, within eight days after notice from the Commissioners to that effect,

cause the same to be altered so as not to open outwards, and in case he neglects so to do the Commissioners may make such alteration, and the expenses of such alteration shall be paid to the Commissioners by such occupier, and shall be recoverable from him in manner hereafter mentioned. And if any such door or gate was before the passing of this Act hung so as to open outwards upon any street, the Commissioners may alter the same, or cause the same to be altered, so that no part thereof when open shall project over any public way.

Number of house to be affixed to it.

XLIX. Every person being the owner or occupier of a house in the Town, shall fix, at his own expense, in a conspicuous place outside of the house or of his gate, in the street, the number of the same as recorded in the assessment books, and no other number, and the said number shall be in legible figures at least three inches in length, and any person who, after the expiration of three months after the publication of this Act, shall neglect or refuse to have such number affixed, shall, on conviction before a Justice of the Peace, forfeit and pay a sum not exceeding fifty rupees.

Occupiers to keep lamp lighted outside their gates in the streets.

L. Every person being the occupier of a house in the said Town, and rated at a gross monthly rental of rupees seventy and upwards for the same, shall fix, at his own expense, in a conspicuous place outside of his house, or if the said house be in a compound, outside of his gate, in the street, a lamp, of a pattern to be approved or allowed by the Commissioners, and the said occupier shall keep and maintain a good and sufficient light burning in the said lamp throughout the night, and any person who, after the expiration of three months next after the passing of this Act, shall neglect or refuse to have such lamp affixed as aforesaid, or who shall on any night after the expiration of the said three months, neglect or refuse to keep a good and sufficient light burning therein as aforesaid shall, on conviction before a Justice of the Peace, forfeit and pay a sum not exceeding one hundred rupees.

Provision for Repetition of Offences.

LI. When any person shall have been convicted under the provisions of this Act, and shall not, within seven days after such conviction, discontinue the nuisance or cease to commit the offence,

for which he was so convicted, such person shall be again liable to the penalties and punishments provided by this Act for such nuisance or offence, and may be again convicted or sentenced under this Act accordingly, and in cases where by the provisions of this Act offenders are required to have notice given them to remove the obstruction or nuisance previous to being liable to the penalties imposed by this Act, if such parties being once warned shall be convicted, and shall again offend against the provisions of this Act, it shall not be necessary to repeat the notice aforesaid, but the parties may be summoned at once.

Obstruction of Commissioners or their Officers.

LII. Any person who shall wilfully obstruct or molest the said Commissioners or any of them, or their Secretary, Surveyor, or other Officer or Workman employed by them under the provisions of this Act, or any person or Company with whom they may have contracted under the provisions of this Act, or any person employed by them in the performance or execution of any duty or thing which they are respectively required or authorized to do under this Act, shall, for every such offence, on conviction before a Justice of the Peace, forfeit and pay any sum not exceeding one hundred rupees, or, in the discretion of the said Justice before whom he is convicted, to imprisonment, with or without hard labour, for a period not exceeding three months.

No person liable for penalty unless complaint made within three months.

LIII. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act for any offence complained of before a Justice of the Peace, unless the complaint respecting such offence shall have been made before such Justice within three months next after the comission of such offence. Provided always that nothing in this Section contained shall be construed so as to prevent the removal at any time of any obstruction or encroachment in or upon any of the streets or lands, or the imposing or levying at any time of any penalty or forfeiture in respect thereof.

Manner in which damages, costs, and expenses are to be ascertained.

LIV. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or of enforcing the paying thereof is not provided for, such amount in case of dispute shall be ascer-

tained and determined by arbitration, in like manner as is provided for proceeding by arbitration under Act No. XXII. of 1847, and if the parties cannot agree upon two persons or arbitrators, or the arbitrators fail to pronounce their award as aforesaid, then by any two Justices of Calcutta, and if the amount so ascertained be not paid by the said Commissioners or by the other party liable to pay the same, as the case may be, within seven days after demand thereof, the amount may be recovered by action of debt or on the case in Her Majesty's Supreme Court of Judicature or the Calcutta Court of Small Causes.

Commissioners to publish short particulars of offences.

LV. The said Commissioners shall publish short particulars of the several offences for which any penalty or punishment is imposed by this Act, affecting other persons than Officers or servants of the said Commissioners, and of the amount of every such penalty and punishment, and shall cause such particulars to be painted on a board, or to be printed upon paper and posted on a board in English and Bengallee, and shall cause such board to be hung up or affixed in some conspicuous place in the Office of the Secretary of the said Commissioners, and when any such penalties are of local application, shall cause such boards to be affixed in some conspicuous place of the immediate neighbourhood to which such penalties are applicable or have reference.

All penalties not otherwise provided may be recovered before Magistrate; form of procedure.

LVI. Every penalty or forfeiture imposed by this Act, or any expense incurred by the said Commissioners in respect of any private drains, sewers, doors, or other things as aforesaid, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before any Justice of the Peace of Calcutta, and on complaint being made to any such Justice, he shall issue his summons requiring the party complained against to appear before him, at a time and place to be named in such summons, and every such summons shall be served on the party offending, either in person or by leaving the same at his usual or last known place of abode, and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for such Justice to proceed to the hearing of the complaint, which complaint shall be reduced to writing, and upon proof of

the offence, or of the expense having been incurred, either by the confession of the party complained against or upon the oath or solemn affirmation of one credible witness or more, it shall be lawful for such Justice to convict the offender or party summoned as aforesaid, and upon such conviction to adjudge the offender to pay the penalty, or forfeiture, or suffer the punishment, or to pay the expense incurred under the provisions of this Act, as well as such costs attending the conviction as such Justice shall think fit, which penalty or forfeiture and costs so adjudged may be levied by distress.

Manner of executing distress.

LVII. Where in this Act any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained, or instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any penalties, forfeitures, or expenses imposed or incurred under the provisions of this Act, the Commissioners, or any one or more of them, if they think fit, may authorize their Secretary or other person to sue the person liable to pay such penalty, forfeiture, or expenses, or any part thereof in the Calcutta Court of Small Causes; and the costs, if any, incurred in any such suit, which are not recovered in the suit, may be defrayed out of the taxes leived under the provisions of Act X. of 1852.

No distress unlawful for want of form, &c.

LVIII. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action on the case in Her Majesty's said Supreme Court, or in the Calcutta Court of Small Causes.

How penalties are to be applied.

LIX. The Justice of the Peace by whom any such penalty or forfeiture shall be imposed may, when the application thereof is not otherwise provided for, award not more than one-half thereof or any less sum to the informer, if he shall think fit so to do, and shall award the remainder or the whole thereof to the said Commissioners, to be by them applied to the purposes of this Act as to them shall appear fit, and shall order the same to be paid over to the Secretary of the said Commissioners for that purpose, whose receipt shall be a good and sufficient discharge to the person so paying the same.

Parties liable to penalty shall pay damage done to Commissioners also.

LX. If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the said Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and if the amount of such damage shall not be paid on demand, the same may be recovered by action of debt, or on the case, in the Calcutta Court of Small Causes, or in Her Majesty's said Supreme Court of Judicature.

Power to Justice to summon witnesses; penalty for not appearing.

LXI. It shall be lawful for any Justice of the Peace to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act, at a time and place to be mentioned in such summons, and require from him, on oath or solemn affirmation, that he will testify the truth in such matter; and if any person so summoned shall without reasonable cause refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, if from distance or any other cause he shall be lawfully entitled to claim such expenses, or if any person appearing shall refuse to be examined on his oath or solemn affirmation according to law, or to give evidence before such Justice, every such person shall for every such offence forfeit and pay a sum not exceeding two hundred rupees, or, at the discretion of such Justice, shall be imprisoned for any term not exceeding one month.

Meaning of words in this Act.

LXII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender only shall include females; the word "person" shall include corporations, whether aggregate or sole; the words "oath," "affirmation," and "solemn affirmation," when used alone, shall include oath or affirmation or other declaration lawfully substituted for an oath in such case by any legislative Act of the Governor General of India in Council, or by any Act of the Parliament of Great Britain extended to India; the word "street" shall include any public square, circus, street, court, alley, foot-path, highway, lane, road, thoroughfare, public passage, or other public place within the said Town; the word "lands" shall include messuages, buildings, walls, tenements, and hereditaments of any tenure as well as lands; the words "the said Commissioners" shall mean the Commissioners for the time being appointed or acting under the provisions of Act No. X. of 1852, and the word "month" shall mean Calendar month.

CALCUTTA POLICE.

ACT No. XIII. OF 1852.

[*Passed on the 27th February*, 1852.

1. *Repeals Act* 21, 1839, *S.* 8 *and specified regulations and ordinances.*

2. *Empowers J. P. to make order of maintenance for wife or children.*

3. *Persons in possession of property suspected to be stolen, may be convicted if they cannot give a satisfactory account of it.*

4. *Persons in possession of stolen property having reasonable cause to believe it stolen, guilty of misdemeanor,*

5, 6. *Directs when search warrant may be granted to search for stolen property, and* (6) *in certain cases Police officers may search without warrant.*

7, 8, 9. *Extends to property worth* 50 *rupees, the jurisdiction given by Act* 21, 1839 *to Justices; and* (8) *extends the jurisdiction of Justices to try receiver and* (9) *accessories may be convicted on confession, &c.*

10. *Boys under* 16 *may for petty larceny, &c. be whipped.*

11. *Assault, forcible entry, or other offence with violence, not being felony, how punishable.*

12. *After recent assault, offender may be apprehended without warrant.*

13. *Women and female children seduced or enticed away for specified purpose, may be restored by J. P. to persons entitled to have them.*

14, 15, 16. *Prohibits the keeping of houses, &c. of entertainment, &c. without licence, and* (15) *Justices are required to hold Sessions for licensing such houses; and* (16) *licensed keepers breaking conditions of licence to forfeit same.*

17. *Persons keeping houses of entertainment, &c. and permitting disorder or gaming therein, or harbouring seamen, &c. to be fined, &c.*

18. *Shops, &c. for sale of liquors, &c. not to be opened before* 6 *a. m. nor after* 9 *p. m.*

19, 20. *Prohibits introduction of spirituous liquors into Fort William without licence; or* (20) *into the Great Gaol or House of Correction.*

21. *Persons in custody making escape, to be punished.*

22. *Persons found drunk, &c. in streets, to be fined.*

23. *Persons found between sunset and sunrise armed with dangerous instruments, &c. loose, idle and disorderly persons, reputed thieves, &c. may be arrested without warrant, &c.*

24. *Prohibits begging or exposure of person to excite charity, &c.*

25, 26. *Prohibits furious riding or driving, &c. and* (26) *driving without lamps after or before certain hours.*

27. *Empowers Jutice, on information, to authorize Police to enter houses suspected to be common gaming houses, and to take specified means for suppressing same.*

28. *Proof of playing for stakes not necessary in support of information for gaming.*

29. *Finding in house cards, dice, and other instruments of gaming, to be primâ facie evidence of house being gaming house.*

30. *Prohibits gaming in public streets.*

31, 32. *Prohibits using false weights, scales, measures, &c. and* (32) *empowers police to seize the same.*

33. *Empowers Justice to issue warrant for apprehension of deserting seamen, &c.*

34. *Prohibits private persons carrying Sword, Spear, Gun, &c. in streets.*

35. *Empowers Chief Magistrate, &c. to make regulations for keeping ghats and public thoroughfares clear, and for processions in streets, &c.*

36. *Prohibits, under penalty, police officers taking bribes of any kind.*

37. *Repeals Act* 18, 1841, *S.* 2 *and ordinance of 8th April* 1802, *and prohibits the manufacture within the town of gunpowder, &c. or having more than* 10 *pounds of gunpowder at one time, &c.*

38, 39, 40, 41. *Empowers Chief Magistrate to grant licenses for sale, and keeping in deposit, of gunpowder, &c. and* (39) *such license to be in force for one*

year, &c. and be renewable; and (40) *Justice may grant warrant to search for gunpowder, &c. but* (41) *these provisions not to apply to government.*

42, 43. *Vessels entering the Port shall deposit at Moyapore all their powder over 50 lbs. which they may retain; and* (43) *for infraction of this law commander to be liable to penalty.*

44. *Extends jurisdiction of Calcutta Justices to any sea-going vessel in river Hoogly.*

45. *Persons apprehended without warrant to be taken before Justice.*

46, 47. *Superior Police officers at Police Stations may take security for appearance of persons charged with certain offences;* (47) *directs the form of the security to be taken.*

48. *Justice may award amends to parties charged on insufficient grounds.*

49, 50, 51, 52. *Justice may proceed summarily for all offences under this Act; and* (50) *in case of non appearance after summons may in cases not of a criminal nature proceed exparte and in others issue warrant; and* (51) *summons may be served by leaving copy with wife, &c and* (52) *Justice may at his own discretion issue warrant without previous summons.*

53, 54. *Empowers Justice to summons and inforce attendance of, and giving evidence by, witnesses, under penalty for default; and also* (54) *to order prisoners to be brought up as witnesses or defendants.*

55. *Penalties and forfeitures may be levied by distress and sale of goods and in certain cases on default defendant may be committed.*

56. *Convictions, &c. not to be quashed, &c. for default of form, but only on the merits.*

57. *Interpretation clause. Schedules A. and B.*

An Act for consolidating and amending the Regulations of the Calcutta Police.

Whereas it is expedient to consolidate and amend divers Rules, Ordinances, and Regulations which from time to time have been passed in Council, and registered in the Supreme Court, for the good order and civil government of the Presidency and Settlement of Fort William in Bengal, It is enacted as follows:

Laws repealed.

I. Section VIII. of Act XXI. of 1839, and the Rules, Ordinances, and Regulations for the good order and civil government of the Settlement of Fort William in Bengal, passed in Council, and registered in the Supreme Court, on the several days hereinafter mentioned, are repealed, but not so as to revive any other Rules, Ordinances, and Regulations thereby repealed.

List of Repealed Ordinances.

Date of passing in Council.	Date of Registry in the Supreme Court.
26th July 1814.	11th November 1814.
1st March 1816.	26th March 1816.
23rd March 1816.	13th April 1816.
14th June 1816.	8th July 1816.
19th October 1816.	12th November 1816.
28th March 1817.	21st April 1817.
13th January 1818.	7th February 1818.
9th July 1819.	22nd October 1819.
24th March 1820.	17th April 1820.
21st August 1821.	13th November 1821.
8th March 1827.	27th April 1827.

Justices of the Peace may make order of maintenance for wives and children.

II. If any person within the said Town, having sufficient means or employment, shall not duly maintain his wife or his legitimate or illegitimate children, and shall be thereof convicted before a Justice of the Peace, upon his own confession or the oath of one or more credible witnesses, the said Justice may make an order upon such person for the maintenance of such wife and children, or any of them, at such monthly rate as to the Justice seems reasonable, and upon non-compliance with the said order for any one month, or longer period, any Justice, by warrant under his hand and seal, may commit the person so convicted to the Common Gaol of Calcutta without labour, or to the House of Correction to hard labour, for any time not exceeding two Calendar months.

Persons convicted of having or conveying stolen goods liable to penalty.

III. Every person who shall be brought before a Justice of the Peace charged with having in his possession, or in his premises with his knowledge, or with conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully obtained, and who shall not give an account to the satisfaction of such Justice how he came by the same, shall be deemed guilty of a misdemeanor, and, on conviction

thereof before such Justice, shall be liable to a penalty not exceeding one hundred rupees, or, in the discretion of the said Justice, to imprisonment, with or without hard labour, for any time not exceeding three Calendar months.

Persons in whose possession stolen goods are found, to be examined, &c.

IV. When any person shall be brought before a Justice of the Peace charged with having in his possession, or in his premises with his knowledge, or with conveying any thing stolen or unlawfully obtained, and shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant to convey the same for some other person, such Justice shall cause every such person, and also if necessary every former or pretended purchaser, or other person through whose possession the same shall have passed, to be brought before him and examined, and shall examine witnesses upon oath touching the same; and if it shall appear to such Justice that any person shall have had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be deemed guilty of a misdemeanor, and shall be liable to a penalty not exceeding one hundred rupees, or, in the discretion of the Justice, may be imprisoned, with or without hard labour, for any time not exceeding three Calendar months; every such person shall be deemed to have had possession of such thing at the time and place when and where the same shall have been found or seized, and the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who shall have employed such carrier, agent, or servant to keep or convey the same.

On suspicion of goods being stolen or unlawfully obtained, Justice may grant search-warrant.

V. If information shall be given on oath to a Justice of the Peace that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building, or other place, such Justice, by special warrant under his hand, directed to any Police Officer or Constable, may cause such dwelling-house, building, or other place to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant, and the said Justice, if it shall appear to him necessary, may

empower such Police Officer or Constable, with such assistance as may be found necessary, (such Constable having previously made known his authority,) to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made any such thing shall be found, then to convey the same before a Justice, or to guard the same on the spot, until the offenders are taken before a Justice, or otherwise dispose thereof in some place of safety, and moreover to take into custody, and carry before the said Justice every person found in such house or place who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

Power to search houses for stolen property without a warrant in certain cases.

VI. If information shall be given to any Superintendent, Deputy Superintendent, or Inspector belonging to the Calcutta Police, that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and the said Superintendent, Deputy Superintendent, or Inspector shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said Superintendent, Deputy Superintendent, or Inspector, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified; provided always, that a list of the articles stolen or missing be delivered and taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided further, that the person who lost the goods, or his representative, accompany the Officer in the search.

Extension of Acts XXI. of 1839 and III. of 1842, to cases in which property stolen does not exceed fifty rupees in value.

VII. All persons charged with the commission of any of the offences specified in Acts XXI. of 1839 and III. of 1842, may be tried by any Justice of the Peace for the said Town, provided the value of the property which the prisoner is charged with having stolen does not, according to the belief of such Justice, exceed fifty rupees, any thing in the said Acts to the contrary notwithstanding; and all the powers

by Act XXI. of 1839 (except Section VIII. aforesaid,) and Act III. of 1842, given or reserved to any such Justice for the trial, conviction, and sentence of parties charged with having stolen property not exceeding twenty rupees in value, and all the provisions of the said Acts (except as aforesaid) shall extend and be applicable to the trial, conviction, and sentence of parties charged with having stolen property, not exceeding, according to the belief of the Justice, fifty rupees in value.

Extension of Acts XXI. of 1839 and III. of 1842, to the offence of receiving stolen property when the value of the property does not exceed fifty rupees.

VIII. Every person charged with the offence of feloniously receiving goods or money, knowing the same to be stolen, may be tried by any Justice of the Peace, provided that the value of the property stolen or received does not, according to the belief of the Justice, exceed fifty rupees, and every such person, on conviction of any such offence, shall be liable, at the discretion of the Justice, to be imprisoned, with or without hard labour, for any term not exceeding six Calendar months; and all the powers and provisions of Act III. of 1842 and Act XXI. of 1839, except Section VIII. aforesaid, shall apply, so far as they may be applicable, to the trial, conviction, and sentence of any person charged under this Section with the offence of feloniously receiving goods or money knowing the same to be stolen; provided always, that if it shall appear to the said Justice that such person has been previously convicted of, or is in the habit of receiving stolen goods, knowing the same to be stolen, the said Justice shall commit such person for trial before the Supreme Court of Judicature.

Summary conviction of persons accessory to the commission of certain felonies.

IX. Every person who is accessory, before or after the fact, to any felony which is punishable on summary conviction before any Justice, is liable to be tried and convicted summarily before such Justice, on his own confession or the oath of one or more credible witnesses, and the convicting Justice shall have power to sentence any such accessory to imprisonment, with or without hard labour, for any time not exceeding six Calendar months, or in his or their discretion, instead of trying him, to commit him for trial to the Supreme Court of Judicature, or other court having authority to try him.

X. Whenever any boy, under the age of sixteen years, is

Punishment for boys.

convicted before a Justice of the Peace, either of simple larceny under the said Act XXI. of 1839, or, under this Act, of feloniously receiving goods or money knowing the same to be stolen, or of being an accessory to any feloney which is punishable on summary conviction before any Justice, the said Justice, if he thinks fit, may sentence him to receive corporal punishment not exceeding fifteen stripes of a light ratan, instead of sentencing him to imprisonment.

Cases of assault, forcible entry, or other injury not being felony

XI. Any person who shall commit any assault, forcible entry or other injury accompained with force, not being felony, within the said Town, against the person or property of any person whatsoever, shall be liable, on conviction thereof before a Justice of the Peace, to a fine not exceeding one hundred rupees, and the said Justice may award the whole or any part of such fine to the party or parties aggrieved, by way of satisfaction for such injury, or, in the discretion of such Justice, such person shall be imprisoned, with or without hard labour, for any time not exceeding four Calendar months.

Persons charged with recent assault may be apprehended by Police without warrant, though assault not committed in view of Police.

XII. Any Deputy Superintendent or Inspector of Police may take into custody, or authorize a Constable to take into custody, without warrant, any person who within the said Town shall be charged by any other person with committing an aggravated assault, in every case in which such Deputy Superintendent or Inspector of Police shall have good reason to believe that such assault has been committed, although not within view of such Deputy Superintendent or Inspector, and that by reason of the recent commission of the offence, a warrant could not have been obtained for the appearance of the offender.

Unlawfully taking or enticing away women or female children under the age of sixteen.

XIII. If complaint shall be made before any Justice that any person within the said Town has unlawfully taken or caused to be taken away, against her will, any woman, or has unlawfully taken or caused to be taken or enticed away any female child under the age of sixteen years, out of the possession or protection and against the will of the husband, father, mother, guardian or other person who has the lawful order, keeping, education, or government of such child, for the purpose of living

in adultery with such woman or child, or for purposes of prostitution, or of deflowering or disposing of her in marriage, it shall be lawful for the said Justice to make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, father, mother, guardian, or such other person as aforesaid, as the case may be, and to compel compliance with such order; and if it be necessary to use force for that purpose, any Deputy Superintendent or Inspector of Police, duly authorized by the Justice, in that behalf, with such assistants as he may deem necessary, may break open doors or otherwise compel compliance with the same, and the said Justice may commit any person charged with taking, or causing to be taken, or enticing any woman or female child as aforesaid, for any of the purposes aforesaid, for trial before the Supreme Court of Judicature.

Keeping open houses of public entertainment without licence.

XIV. Any person who shall have or keep any house, shop, room, or place of public resort and entertainment within the said Town, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed, (whether the same shall be kept or retailed therein or procured elsewhere,) without a licence for the same being first had and obtained from and under the hand of two Justices of the Peace, shall be liable, on conviction thereof before any of the said Justices, to a penalty not exceeding one hundred rupees for every day that such unlicensed house or place of public resort or entertainment is kept open.

Two Justices to grant licences.

XV. Two or more of the said Justices shall from time to time hold licensing Sessions, for the purpose of granting licences to the keepers of such houses or places of public resort and entertainment as aforesaid, and the said licences may be granted by the said Justices for any term not exceeding one year, subject to the restriction contained in Section XII. Act XI. of 1849, and upon such conditions to be inserted in every such licence as the Justices from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same.

XVI. The keeper of every such house or place of public

Penalty for parties not conforming to the tenor of their licence.

resort and entertainment, who shall wilfully offend against any condition of his licence, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding one hundred rupees for every such offence, and, in the discretion of the convicting Justice, to forfeit his licence, in addition to any other penalty or punishment that shall be imposed on him.

Disorderly conduct and illegal harbouring of deserters in houses of public entertainment.

XVII. Every person who shall have or keep any house, shop, room, or place of public resort or entertainment within the said Town, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed, (whether the same shall be kept or retailed therein or procured elsewhere,) and who shall knowingly or wilfully permit drunkenness or other disorderly behaviour in such house, shop, room, or place, or who shall knowingly suffer any unlawful games or any gaming whatsoever therein, or who shall knowingly permit prostitutes or persons of notoriously bad character to meet or remain therein, or who shall wilfully harbour or conceal any Seaman or Apprentice who shall have deserted, knowing or having reason to believe such Seaman or Apprentice so harboured or concealed to be a deserter, shall be liable to a penalty not exceeding one hundred rupees, and shall be liable to forfeiture of his licence, in addition to any other penalty or punishment that shall be imposed on him.

Hours for sale of spirituous liquors and intoxicating drugs.

XVIII. Every person who shall keep open his house, shop, room, or place, for the purpose of selling or retailing spirituous or fermented liquors or intoxicating drugs, under a licence from the Collector of Calcutta, after the hour of nine at night and before the hour of six in the morning, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding twenty-five rupees, and shall also be liable, in the discretion of the said Justice, to the forfeiture of his licence.

Introduction of spirituous liquors without licence into Fort William.

XIX. If any person, not being amenable to the Articles of War, shall take or attempt to take into Fort William any quantity of spirituous liquors, wine, or intoxicating drugs of any description, without a licence from the Commanding

Officer of the said Fort, or from some other person thereunto authorized, any Justice of the Peace, upon complaint to him thereof made, may issue his summons or warrant for bringing the party complained of, and also the liquors, wine, or drugs, and the vessels containing the same, before him, and in case of conviction may adjudge the said liquors, wine, or drugs, and the vessels containining the same, to be forfeited, and every such person so convicted shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding fifty rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding two Calendar months.

Taking spirits, &c. into the Gaol.

XX. Every person who shall take or throw, or attempt to take or throw, into the Great Gaol or House of Correction of Calcutta, any quantity of spirituous liquors, wine, or intoxicating drugs, without the licence or consent of the Jailor or Keeper of such Gaol or House of Correction, respectively, shall be liable for every such offence, on conviction before a Justice of the Peace, to a penalty not exceeding fifty rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding two months.

Breaking Gaol.

XXI. Every person who shall have been committed to the Great Gaol or House of Correction, or who shall be in custody at any Police Office or Station, and who shall unlawfully break or escape from such Gaol, House of Correction, Police Office, or Station, shall be liable for every such offence, on conviction before a Justice of the Peace, to imprisonment, with or without hard labour, for any period not exceeding three months, and such imprisonment shall commence and take effect from and after the expiration of any other sentence of imprisonment under which such person may be imprisoned at the time of committing the offence aforesaid.

Riotous or indecent behaviour.

XXII. Every person who shall be found drunk and incapable of taking care of himself in any street or public thoroughfare, or who shall be guilty of any riotous or indecent behaviour in any street, public thoroughfare, Police Office, Station, or Section House, shall be liable, on conviction before a Justice of the

Peace, to a penalty not exceeding twenty rupees for every such offence, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding fourteen days.

Rogues and vagabonds.

XXIII. Any Constable or Peace Officer belonging to the Calcutta Police may take into custody, without a warrant, any person who shall be found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, or any loose, idle, or disorderly persons whom he shall find disturbing the public peace, or whom he shall have good cause to suspect of having committed, or being about to commit, any felony, misdemeanor, or breach of the peace, or any reputed thief whom he shall find between sunset and sunrise on board any boat in the river, or lying or loitering in any bazar, street, road, yard, thoroughfare or other place, and not giving a satisfactory account of himself, or any person having in his possession without lawful excuse (the proof of which excuse shall lie on such person), any picklock, key, crow, jack, bit, or other implement of house-breaking, or any person found between sunset and sunrise having his face blackened or otherwise disguised, with intent to commit any felony, or any person who shall be found between sunset and sunrise in any dwelling-house or other building whatsoever, with intent to commit any felony therein; and every such offender, on conviction before a Justice, either on his own confession or on the evidence of one or more credible witnesses, shall be liable, at the discretion of the said Justice, to be imprisoned, with or without hard labour, for any term not exceeding four Calendar months.

Beggars.

XXIV. Every person who shall beg or apply for alms or relief in any public road, street, or thoroughfare, or who shall expose or exhibit any sores, wounds, bodily ailment or deformity in such roads, streets, or public thoroughfares, with the object of exciting charity, or of obtaining alms, or relief, or who shall, anywhere within the Town, seek for or obtain alms or relief by means of any false statements or pretences, or who shall cause, aid, or abet any such person as aforesaid in the commission of any of the said

offences, shall, for every such offence, on conviction before a Justice, be liable to imprisonment, with or without hard labour, for any period not exceeding two Calendar months.

Furious Driving.

XXV. Every person who shall drive or ride furiously, or at a greater rate than ten miles an hour, any vehicle or animal in the said streets or public thoroughfares, shall, for every such offence, on conviction thereof before a Justice, be liable to a penalty not exceeding fifty rupees, or in default of payment thereof, to imprisonment for any period not exceeding one Calendar month.

Lamps to vehicles.

XXVI. Every person who shall drive any vehicle of any description, at any time between one hour after sunset and one hour before sunrise, without having a lighted lamp affixed to such vehicle, shall, for every such offence, on conviction thereof before a Justice, be liable to a penalty of not more than fifty rupees, or, in default of payment thereof, to imprisonment for any period not exceeding one Calendar month.

For suppression of common gaming-houses.

XXVII. If any person shall make oath before a Justice of the Peace that any house, building, room, or other place within the Town, is commonly reported and believed to be kept or used as a common gaming-house or place, such Justice, by an order in writing, may authorize a Deputy Superintendent or Inspector of Police to enter any such house, building, room, or place, with such Constables as he shall deem requisite to accompany him, and if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody and search all persons found therein, and to seize all tables and instruments of gaming found in such house, building, room, or place, or on the persons of any of those found therein, and also to seize all moneys and securities for money found in any such house, building, room, or place; and the owner or keeper of the said gaming-house, or place, or other person having the care and management thereof, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding one hundred rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any time not exceeding three Calendar months, and upon conviction

of any such offender all such tables and instruments of unlawful games shall be destroyed or otherwise disposed of by order of the Justice before whom the conviction is had, and all the moneys and securities for moneys so found shall be forfeited to Government, and every person found on such premises, and who shall not be the owner or keeper, or other person having the care or management thereof, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding fifty rupees.

Proof of playing for stakes unnecessary.

XXVIII. It shall not be necessary, in support of any information for gaming in, or for suffering any games or gaming in, or for keeping or managing, or being concerned in the management or conduct of, any common gaming-house or place, under this Act to prove that any person found playing at any game was playing for any money, wager, or stake.

What articles if found shall be evidence that the house is a gaming-house.

XXIX. Where any cards, dice, balls, counters, tables, or other instruments of gaming used in playing any unlawful game, are found in any house, building, room, or place suspected to be used as a common gaming-house or place, and entered by an order issued under this Act, or about the person of any who are found therein, it shall be evidence, until the contrary is made to appear, that such house, building, room, or place, is used as a common gaming-house or place, and that the persons found in the house, building, room, or place, where such tables or instruments of gaming shall have been found, were playing therein, although no play was actually going on in the presence of the Superintendent, Deputy Superintendent, Inspector, or Constable entering the same as aforesaid.

Gambling in the Streets.

XXX. Every person who shall game for money, or any other thing or reward whatsoever, or who shall join in, bet at, or abet, or be present for the purpose of joining, betting at, or abetting any such gaming, in any street or public thoroughfare in the said Town, shall be liable, on conviction thereof before a Justice, to a penalty not exceeding fifty rupees, or, in default of payment, to imprisonment for any term not exceeding one Calendar month.

XXXI. All persons who deal in any articles by retail by weight or measure, and who have in or about their shops or premises, or otherwise in their possession, any false or deficient weight, measure, beam or scale, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding twenty rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding one Calendar month; and every such false and defective weight, measure, beam or scale shall be forfeited, and the said Justice shall cause the same to be destroyed; and it shall be lawful for the Chief Magistrate or Superintendent of Police from time to time to issue public notices at the Police Office and Thannas, and such places as to him appear suitable, of the exact weight and measure of just weights and measures, and to keep at the Police Office and Thannas standard weights and measures for the information of the public.

Using false or defective weights and measures.

XXXII. Any Justice of the Peace or the Superintendent of Police may issue his warrant, directing any Deputy Superintendent or Inspector of Police to enter into any shop or other place where articles are bought and sold by retail, and to search for and to examine the weights and measures therein, and seize all such as he may suspect to be forfeited as false and deficient in weight.

False weights and measures.

XXXIII. If any seaman, whether British or Foreign, shall, wilfully and without leave or lawful excuse, absent himself from his vessel, any Justice of the Peace, upon complaint upon oath, and at the instance of any of the officers of the said vessel, may issue his warrant to apprehend and detain the said seaman and convey him on board of his vessel; and whenever any seaman shall have been imprisoned, it shall be lawful for any Justice of the Peace, on the release of such seaman from imprisonment, to cause him to be conveyed on board of the vessel to which he may belong.

Justice of the Peace may take cognizance of cases of desertion or unauthorized absence from their ship of Foreign and Asiatic seamen.

XXXIV. No person, not being a soldier or sailor in the service of the Queen or the East India Company or a Constable belonging to the Calcutta Police, shall be entitled to carry any sword,

Arms carried by persons without due authority.

spear, gun, or other offensive weapon in any street, thoroughfare, or public place, unless by leave of the Chief Magistrate or other head of the Police; and any person offending against this enactment, shall be liable to be disarmed by any Constable or other person acting under such instructions as shall be from time to time given by the Chief Magistrate or other head of the Police; and the weapons so seized shall be taken before the Chief Magistrate or other head of the Police, and forfeited to the Government, if the Chief Magistrate or other head of the Police, in his discretion, shall think fit to declare them forfeited.

The regulation of carriages and persons at places of public resort.

XXXV. The Chief Magistrate or other head of the Police, from time to time, and as occasion may require, may make regulations for keeping clear the public ghauts and landing-stairs, and for the route to be observed in the public streets and places by all carts, carriages, palanquins, hackeries, and other vehicles, and by all horses, cattle and persons, and as to the times during which they may take the said routes, and for preventing obstruction of the streets and thoroughfares within the Town on all times of public processions and native holidays, as also during the time of Divine Service, and also may give directions to the Constables and other Peace Officers for keeping order and for preventing any obstruction of the thoroughfares in the immediate neighbourhood of any place of public resort, and in any case when the ghauts, landing-stairs, streets, or thoroughfares may be thronged, or may be liable to be obstructed, and every person opposing or not obeying the orders so issued by the Chief Magistrate or other head of the Police, shall be liable to be arrested and detained by the Police, and, on conviction before a Justice of the Peace, shall be liable to a penalty of one hundred rupees.

Police Officers taking Bribes.

XXXVI. Any Police Officer or Constable who shall ask for or take any bribe or unauthorized reward in consideration of his doing or omitting to do any act in his official capacity, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding five hundred rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any time not exceeding three months.

As to manufacture or possession of Gun-powder or Gun-cotton.

XXXVII. The Rule, Ordinance, and Regulation passed by the Governor General in Council on the 8th April 1802, and Section II. Act XVIII. of 1841, are hereby repealed. Any person who shall, within the limits of the said Town, manufacture Gun-powder or Gun-cotton, or who shall, without a licence for that purpose being first had and obtained from the Chief Magistrate, have in his possession, in any house, shop, warehouse, or other building, at any one time, a greater quantity of Gun-powder or Gun-cotton for sale or otherwise than ten pounds, shall, on conviction before a Justice of the Peace, be liable to a forfeiture of all such Gun-powder or Gun-cotton so manufactured or possessed, together with the vessel or receptacle in which it may be seized, and also to a fine not exceeding in amount the sum of rupees five hundred.

Chief Magistrate to grant licences for sale and deposit of Gun-powder, &c.

XXXVIII. It shall be lawful for the Chief Magistrate to grant to any person (whom he shall deem fit and proper) a licence for the sale or keeping in deposit, within the limits of the said Town, any quantity of imported or Indian manufactured Gun-powder not exceeding fifty pounds, or any quantity of Gun-cotton not exceeding twenty pounds, on such conditions as shall be specified in the licence, and any person who shall be guilty of a breach of any of such conditions, shall, on conviction before a Justice of the Peace, be liable to a forfeiture of his licence and of all Gun-powder or Gun-cotton so kept in deposit contraray thereto, and also to a fine not exceeding rupees two hundred.

Licences to be in force for one year, and to contain certain provisions.

XXXIX. Every such licence as is mentioned in the preceding Section shall be in force for a period of one year only and no longer, but shall be renewable by the said Chief Magistrate at his discretion on the same or any other terms and conditions, and such licence shall also provide for the transit and carrying of Gun-powder from one place to another within the limits of the said Town, in such manner and in such quantity as shall be deemed advisable for the safety of the inhabitants and of property within the said Town, and every person offending against such provisions shall be liable to a fine not exceeding rupees fifty.

XL. Any Justice of the Peace, on credible information laid before him on oath or solemn affirmation, that Gun-powder or Gun-cotton, or mixed materials for making the same contrary to the provisions of this Act, are suspected to be stored, kept, or possessed by any person, may issue his warrant, authorizing any Police Officer to search in the day-time any house, shop, magazine, or other building or place in which he has reasonable ground to suspect any Gun-powder or Gun-cotton to be manufactured, sold, or kept, or any boat, carriage, cart, or other vehicle in which any Gun-powder or Gun-cotton, or materials for manufacturing the same, may be suspected to be carried, or any person suspected of carrying the same contrary to such licence or to the provisions of this Act, and all Gun-powder, Gun-cotton, or materials for manufacturing the same, found on such search, shall, together with the vessels or receptacles in which they may be stored, be immediately seized and brought before a Justice of the Peace, with whom the same shall be kept till it shall be adjudged whether the same shall be forfeited.

As to search for Gun-powder, &c.

XLI. The four last preceding Sections shall not extend to any Government Magazine or store, or building for the making or deposit of Gun-powder or Gun-cotton under the authority or for the use of the Government, or to any Gun-powder or Gun-cotton for the use of Her Majesty's or the East India Commpany's Troops, or otherwise for the service of Government, or to any of Her Majesty's Vessels of War, or the Vessels of the Indian Navy, or of the East India Company's Marine, or to any other Vessel within the River Hooghly laden with Gun-powder for importation or exportation.

Act not applicable to Government Powder, &c.

XLII. Commanders of merchant vessels entering the River Hooghly shall, on or before the arrival of their vessels off Moyapore, deposit in the Magazine at that place all Gun-powder intended for the Ship's use from on board their respective vessels, exceeding the quantity of fifty pounds, which quantity they shall be permitted to retain in their vessels for the purpose of firing salutes or signals in case of distress, and the Gun-powder so deposited shall be again delivered on board on the return of the respective

As to Vessels arriving in River with Powder on Board.

vessels from Calcutta in prosecution of the outward voyage; and Commanders of merchant vessels in the River Hooghly having on board their vessels Gun-powder or Gun-cotton for importation (not being Gun-powder belonging to the Government) exceeding the quantity of fifty pounds, shall also deposit the same, on or before the arrival of their vessels off Moyapore, in the Magazine of that place, under charge of an Officer belonging to the Customs at that place, or such other person as the Governor of Bengal may appoint, and the proprietors or consignees of such Gun-powder or Gun-cotton, or their agents, whenever they shall desire to remove the same from the Magazine, shall make application to the Collector of Sea Cutoms for authority to do so, which application, when it be intended that such Gun-powder or Gun-cotton shall be lodged in any place, or be laden in any boat or other conveyance within the limits of the said Town, shall be accompanied by a written order of permission, signed by a Justice of the Peace, to that effect, and when it be intended that such Gun-powder or Gun-cotton shall be exported by sea, the Commanders of vessels or the proprietors or their agents, by whom it shall have been deposited in the Magazine, shall make application to the Collector of Sea Customs for permission so to export it: and the Collector of Sea Customs shall comply with such applications aforesaid, except where the exportation of ammunition shall require, under provisions of Act XVIII. of 1841, a licence from a public Officer other than the Collector of Sea Customs, in which case the Collector of Sea Customs shall not comply with the application unless it be accompanied by the licence of such public Officer; and on or before the removal of all Gun-powder or Gun-cotton from the Magazine, the Collector of Sea Customs shall and he is hereby authorized to levy a fee, the rate of which shall not exceed two annas per pound, for all Gun-powder or Gun-cotton that has been lodged therein, which fee shall be taken to cover all charges for the safe custody of the Gun-powder or Gun-cotton during the period it has remained or shall remain in the Magazine; provided also, that the Governor of Bengal shall be at liberty to authorize such arrangement to be made, by letting or otherwise contracting for the custody of the Magazine, and for the collection and appropriation of the fees which may be

charged for Gun-powder or Gun-cotton stored therein, as he may think proper, subject however to all the restrictions and rules imposed by this Section in respect to the removal from the Magazine of Gun-powder therein stored.

Penalties.

XLIII. For every act done or ommitted to be done contrary to the provisions of the last preceding Section by the Commander of any merchant vessel in the port of Calcutta, the Commander aforesaid shall on conviction thereof before any Justice of the Peace, be liable to a penalty of two hundred rupees; and the Collector of Sea Customs is hereby empowered to search for any quantity of Gun-powder which he may have reason to believe to be on board a merchant vessel in the port of Calcutta contrary to the provisions of this Act, and to seize and detain it as forfeited to Government, to be dealt with as the Governor of Bengal shall think right to direct.

Jurisdiction of Justices on the River Hooghly.

XLIV. The jurisdiction of the Justices of the Peace acting within and for the said Town shall extend to all offences commited by any person in sea-going vessels in any part of the River Hooghly, and the said Justices shall have the same power and jurisdiction in respect of criminal offences committed in sea-going vessels, in any part of the said river, that they now have and exercise within the said Town.

Persons apprehended without warrant to be taken first to the Station-house, and if not admitted to bail, to the Police Office.

XLV. Every Officer belonging to the Calcutta Police is hereby authorized to arrest without a warrant any person committing in his view any offence against this Act, and every person taken into custody without warrant by any Constable belonging to the Calcutta Police, shall be forthwith taken to the Station-house to which the Constable belongs, in order that such person may be detained, until he can be brought before a Justice of the Peace to be dealt with according to law, or in order that such person may give bail for his appearance before a Justice of the Peace, if the Superintendent, Deputy Superintendent, or Inspector at the Station shall deem it prudent to take bail in the manner hereinafter mentioned, which he is hereby authorized to do.

XLVI. Whenever any person is brought to the Station-

Power to take recognizances at Station-houses or Police Lock-up on certain charges.

house as aforesaid charged with misdemeanor, assault, or with having carelessly done any hurt or damage, or whenever any Superintendent, Deputy Superintendent, or Inspector of Police, or Town Serjeant in charge of a Police Lock-up, shall deem it probable that any person so brought is falsely or maliciously charged with having committed a felony, and any such person as aforesaid shall be, without the warrant of a Magistrate, in the custody of any Constable of the Calcutta Police, it shall be lawful for the Superintendent or any Deputy Superintendent of Police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

XLVII. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Justice of the Peace at his next sitting, and the time and place of appearance, and the sum thereby acknowledged (not exceeding one thousand rupees) shall be specified in the said recognizance, or the condition thereof; and the Officer taking the recognizance shall enter into a book, to be kept for the purpose, the name, residence, and occupation of the party and his surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Justice present at the time and place and when and where the party is bound to appear, and the said recognizance may be in either of the forms, as the case may be, in Schedule (A,) to this Act annexed, or to the like effect.

Amends may be awarded for false or malicious charges.

XLVIII. In every case in which any person shall be given in charge to a Constable, or in which any information or complaint of any offence shall be laid or made before any Justice of the Peace, and it shall appear to the Justice by whom the case shall be heard that there was no sufficient ground for making the charge, it shall be lawful for such Justice, at his discretion, to award such amends, not more than the sum of fifty rupees, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to the Justice shall seem meet.

XLIX. Every Justice of the Peace shall be empowered summarily to hear and determine every complaint of an offence committed against this Act, and to convict any person charged with any such offence on the oath of one or more witnesses, or by his own confession, and to award the penalty or punishment herein provided for such offence.

Offences how to be tried.

L. Upon any information or complaint to be laid or made before any Justice of the Peace (which complaint need not be made upon oath) of any matter which such Justice is authorized to hear and determine, either under this or any other Act or Regulation, he may summon the party charged, and if such party shall not appear according to the tenor of the summons, the Justice, upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the party, to hear and determine the case in the absence of the party, and in all criminal cases shall issue his warrant for apprehending and bringing such party before him or some other Justice, in order that the said information and complaint may be heard and determined.

Justices may proceed by summons, and if party does not appear may issue warrant.

LI. Every such summons may be served by delivering it or a copy thereof to the party, or to his wife, servant, or some inmate of his dwelling, or by delivering it at or affixing it to the door or wall of his usual place of abode.

How summons may be served.

LII. A Justice of the Peace may, without issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence cognizable before him, either under this or any other Act or Regulation, whenever good grounds for so doing shall be stated on oath before him.

Justices may issue warrant without summons.

LIII. Any Justice may summon any witness to appear and give evidence upon the matter of any offence cognizable before him, either under this or any other Act or Regulation, with which any person shall be charged before him, at a time and place appointed for hearing the information or complaint, and, by warrant

May enforce attendance of witnesses.

under his hand and seal, may require any person to be brought before him who shall neglect or refuse to give evidence at the time and place appointed on such summons, proof upon oath being first given of personal service of the summons upon the person against whom such warrant shall be granted, and such Justice may commit any person coming or brought before him who shall refuse to give evidence, to the Common Gaol of Calcutta, for any time not exceeding fourteen days, or until such person shall sooner submit himself to be examined, and in case of such submission the order of such Justice shall be a sufficient warrant for the discharge of such person.

Power to Magistrates to order prisoners to be brought up to the Police Office.

LIV. When any Justice of the Peace is desirous of examining any prisoner confined in the Great Gaol or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Justice to issue an order in the form contained in Schedule (B,) to this Act annexed, or to the like effect, addressed to the Keeper or Governor of the said Gaol or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination and the Keeper or Governor of the said Gaol or House of Correction, on the receipt of such order, shall act in accordance therewith, and shall take care for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

Recovery of penalties and forfeitures.

LV. All penalties and forefeitures and other sums of money imposed, awarded, or ordered to be paid by any Justice of the Peace under the authority of this Act, and all sums of money which any person is bound to pay under any recognizance taken before a Justice of the Peace or an Officer of Police empowered to take recognizances by this Act, and afterwards forfeited, in case of non-payment thereof, may be levied by distress and sale of the goods and chattels of the offender or person liable to pay the same, by warrant under the hand of any Justice of the Peace; and in case any such penalty or forfeiture or sum of money shall not be forthwith paid, any Justice may order the party to be detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give

security to the satisfaction of such Justice for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and the Justice may take such security by way of recognizance or otherwise; and if upon the return of such warrant it shall appear that no such sufficient distress could be had whereon to levy the said penalty or forfeiture, or sum of money, and the same shall not be forthwith paid, or in case it shall appear, to the satisfaction of the Justice, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such penalty, forfeiture, or sum of money could be levied if warrant of distress should be issued, the Justice, by warrant under his hand, may commit such party to the Common Gaol of Calcutta, there to remain for any time not exceeding two Calendar months.

Convictions to be quashed on merits only. Form of conviction, &c.

LVI. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

LVII. In the construction of this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the context or subject repugnant to such construction; that is to say,

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word "Town" shall include the Town of Calcutta and Settlement of Fort William.

The word "Justice" or "Justices of the Peace" shall mean the Justices of the Peace for the time being acting within and for the said Town of Calcutta and Settlement of Fort William.

The word "Oath" shall mean any oath or solemn affirmation in lieu of an oath.

SCHEDULE A.

FORM 1.

Town of Calcutta. } Be it remembered that on the day of in the year *A. B.*, of and *C. D.*, of and *E. F.*, of personally came before me *G. H.*, *Superintendent of Police*, and acknowledged themselves to owe to our Sovereign Lady the Queen; that is to say, the said *A. B*, the sum of Rupees *Two Hundred*, and the said *C. D.* and *E. F.* each the sum of Rupees *One Hundred*, separately, and of good and lawful money of British India, to be made and levied of their Goods and Chattels, Lands and Tenements respectively, to the use of our said Lady the Queen, Her heirs and successors, if the said *A. B.* shall make default in the condition hereinunder written.

Acknowledged before me, *G. H.*,

Superintendent of Police.

The condition of the above written recognizance is such that *if the said A. B. shall appear before J. P., Justice of the Peace, at* 10 *o'clock in the morning of the day of in the year at the Police Office in Calcutta*, then the said recognizance to be void, or else to stand in full force and virtue.

FORM 2.

Town of Calcutta. } Be it remembered that on the day of in the year *A. B.*, of personally came before me *G. H.*, *Superintendent of Police*, and acknowledged himself to owe to our Sovereign Lady the Queen, the sum of Rupees *Two Hundred*, of good and lawful money of British India, to be made and levied of his Goods and Chattels, Lands and Tenements, to the use of our said Lady the Queen, Her heirs and successors, if he, the said *A. B.*, shall fail in the condition hereunder written.

Acknowledged before me,

G. H.,

Superintendent of Police.

The condition of the above written recognizance is such that *if the said A. B. shall appear before J. P., Justice of the Peace, at* 10 *o'clock in the morning of the day of in the year at the Police Office in Calcutta*, then the said recognizance to be void, or else to stand in full force and virtue.

NOTE.—The words and figures in Italics in this Schedule to be filled up as the case may be.

SCHEDULE B.

FORM OF ORDER.

To A. B., Keeper of the Great Gaol of Calcutta, or Governor of the House of Correction, as the case may be.

Bring before me in safe custody on the day of in the year *C. D.*, a prisoner now in the (*Great Gaol or House of Correction as the case may be*) in order that the said *C. D.* may be examined by me as a (*witness or defendant*) with respect to (*here state the charge, case or proceeding in respect of which the evidence of the prisoner is required.*)

E. F.,
Justice of the Peace.

STRAITS SETTLEMENTS.

ACT No. XIV. OF 1852.

[*Passed on the 27th February*, 1852.

1. *Extending Acts* 24, 1841 *and* 17, 1843 *to Straits Settlements.*

2. *Extending provisions of above Acts relating to Supreme Court to Court of Judicature of Straits Settlements.*

An Act for extending the provisions of Acts XXIV. of 1841. and XVII. of 1843, to the Straits-Settlement.

Whereas doubts have been entertained whether Acts XXIV. of 1841. and XVII. of 1843, are in force in the Settlement of Prince of Wales' Islands, Singapore and Malacca; It is hereby enacted as follows:

I. The provisions of Acts XXIV. of 1841, and XVII. of 1843, shall be applicable and in force in the said Settlement.

II. All provisions contained in Act XXIV. of 1841, and Act XVII. of 1843, relating to Her Majesty's Supreme Courts shall be applicable to the Court of Judicature of the said Settlement, and shall be respectively construed as, if, instead of the words Her Majesty's Supreme Courts, or Her Majesty's Supreme Courts of the repective Presidencies, or the Supreme Court of each of the Presidencies, the words, "the Court of Judicature of Prince of Wales' Island, Singapore and Malacca," had been therein mentioned.

LAW OF EVIDENCE.

ACT No. XV. OF 1852.

[*Passed on the 12th March*, 1852.

1. *Repeals part of Act* 7, 1844, *S.* 1.

2, 3, 4. *Establishes the competency of parties to legal proceedings, to give evidence either viva voce or in any other manner;* (3) *except in criminal proceedings of all kinds; also* (4) *except in proceedings for adultery or breach of promise of marriage.*

5. *Nothing in this Act to affect Wills' Act.*

6. *Empowers H. M.'s Courts and Judges to compel parties to give inspection of documents and give copies, &c. if application is made* 21 *days before issue joined, &c.*

7. *Makes proclamations, treaties and other acts of state, of all governments, and judgments and all judicial proceedings provable by certified copy without proof of seal or signature, &c.*

8. *Makes Registry of British Ships and certificates of such Registry provable either by production, copy or certificate.*

9. *Makes production of record of conviction or acquittal unnecessary to prove such conviction, &c. and makes certificate of clerk in court sufficient.*

10. *Such books and documents as are admissible in evidence on proof of their coming from the proper custody; contents thereof may be proved by examined copies of extracts.*

11. *Makes it a misdemeanor for any officer to certify to false extracts, or copies.*

12. *Empowers officers and persons of all kinds who are employed in hearing &c. evidence to administer oath to witnesses.*

13. *Makes it a felony to forge, &c. any authentication of documents authorized by this Act.*

14. *Act to come into operation from* 10*th April*, 1852.

An Act to amend the Law of Evidence.

Whereas it is expedient to amend the law of Evidence in divers particulars, It is hereby enacted as follows:

Repeal of part of Section I., Act VII. of 1844.

I. So much of Section I. of Act VII. of 1844 as provides that the said Act shall "not render competent any party to any suit, action, or proceeding individually named in the record, or any lessor of the plaintiff or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance, or any person in whose immediate and individual behalf any action may be brought or defended, either wholly or in part," is hereby repealed.

Parties to be admissible witnesses.

II. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence with respect to, or concerning any suit, action, or other proceeding in any of such Courts, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding, may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *vivâ voce*, or by deposition, according to the practice of the Courts, on behalf of either or any of the parties to the said suit, action, or other proceeding.

Parties not compellable to criminate themselves. Husband and wife not compellable to give evidence for or against each other.

III. But nothing herein contained shall render any person, who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

IV. Nothing herein contained shall apply to any action, suit,

Act not to apply to proceedings for adultery or to actions for breach of promise of marriage.

or proceeding in any Court of Common Law, or in any Ecclesiastical Court, instituted in consequence of adultery, or to any action for breach of promise of marriage.

The Wills' Act not repealed.

V. Nothing herein contained shall repeal any provision contained in Act XXV. of 1838.

Courts authorized to compel inspection of documents in actions and other proceedings whenever Equity would grant discovery.

VI. Whenever any action or other legal proceeding shall henceforth be pending in any of Her Majesty's Courts, such Court and each of the Judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped, in all cases in which previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by any other proceeding in a Court of Equity at the instance of the party so making application as aforesaid to the said Court or Judge. Provided always, that every such application shall be made as aforesaid before issue joined in any such action, and twenty-one days before the trial or hearing of any other legal proceeding.

Foreign and Colonial Acts of State, judgments, &c. provable by certified copies, without proof of seal or signature or judicial character of person signing the same.

VII. All Proclamations, Treaties, and other Acts of State of any Foreign State, or of the East India Company, or of any Territory under the Government of the East India Company, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings, of any Court of Justice in any Foreign State or in any of the Territories under the Government of the East India Company, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by examined copies, or by copies authenticated as hereinafter mentioned; that is to say, if the document sought

to be proved be a Proclamation, Treaty, or other Act of State, the authenticated copy to be admissible in evidence must purport to be sealed with the Seal of the Foreign State, or of the East India Company, or of the Territory under the Government of the East India Company, or of the British Colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any Foreign or Colonial Court, or of any Court within the Territories under the Government of the East India Company, or an affidavit, pleading, or other legal document filed or deposited in any such Court, the authenticated copy to be admissible in evidence, must purport either to be sealed with the Seal of the Foreign or Colonial Court, or Court within the Territories under the Government of the East India Company to which the original document belongs, or in the event of such Court having no Seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court, and such Judge shall attach to his signature a statement in writing on the said copy that the Court whereof he is a Judge has no Seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the Seal, where a Seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Registers of British Vessels and Certificates of Registry admissible without proof of Signature.

VIII. Every Register of a Vessel kept under Act X. of 1841, or under any of the Acts of Parliament relating to the registry of British Vessels, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by the production of the original, or by an examined copy thereof or by a copy thereof purporting to be certified under the hand of the person having the charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reason-

able time for the same, upon payment of the sum of one Rupee; and every such Register, or such copy of a Register, and also every Certificate of Registry granted under the said Act or any of the Acts of Parliament relating to the registry of British Vessels, and purporting to be signed as required by law, shall be received in evidence in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, as *primâ facie* proof of all the matters contained or recited in such Register, when the Register, or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in or endorsed on such Certificate of Registry when the said Certificate is produced.

Where necessary to prove conviction or acquittal, not necessary to produce record, but Certificate of Clerk of Court.

IX. Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified or purport to be certified under the hand of the Clerk of the Court or other Officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other Officer, that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, ommitting the formal parts thereof.

Examined or certified copies of documents admissible.

X. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statue or Act exists which renders its contents provable by means of a copy, any copy thereof, or extract therefrom, shall be admissible in evidence in any of Her Majesty's Courts of Justice, or before any person now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the Officer to whose custody the original is entrusted, and which Officer is hereby required to furnish such certified copy or ex-

tract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding four annas for every folio of ninety words.

Certifying a false document a misdemeanor.

XI. If any Officer authorized or required by this Act to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

Court, &c. may administer oath.

XII. All Her Majesty's Courts within the British Territories under the Government of the East India Company, and every Judge and Justice of such Courts, and every Officer, Commissioner, Arbitrator or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to or concerning any suit, action, or other proceeding in any of such Courts, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

Persons forging seal, stamp or signature of certain documents, or wilfully uttering the same, guilty of felony.

XIII. If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or couterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to transportation for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labour; and whenever any such document shall have been admitted in evidence by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some Officer of the Court or other proper person, for such period and subject to such conditions, as to the said Court or person shall seem meet; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been

commited in the place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.

XIV. This Act shall come into operation from and after the tenth day of April, one thousand eight hundred and fifty-two.

SUPREME COURT.—CRIMINAL PROCEDURE.

Partly Repealed by XVIII of 62.

ACT No. XVI. OF 1852.

[*Passed on the 12th March*, 1852.

1, 2, 3. *Empowers the Court to amend the indictment for correction of variances with the evidence, not material to the merits and by which the defendant cannot be prejudiced, and to postpone trials, &c. and* (2) *makes the verdict and judgment valid notwithstanding such amendments; and* (3) *directs that in drawing up record afterwards, it shall be drawn up as amended.*

4, 5, 6, 7. *Directs in what manner may be drawn indictments for murder and manslaughter; and indictments* (5) *for forging, uttering, stealing, embezzling, destroying or concealing or for obtaining by false pretences any document; and indictments* (6) *for engraving, &c. the whole or part of any plates, &c. and indictments* (7) *in all other cases where it shall be necessary to make any averment as to any instrument, &c.*

8. *In indictments the intent to defraud may be laid generally, and may be proved as generally.*

9. *Under indictments for felony or misdemeanor defendant may be convicted of merely an attempt to commit.*

10. *Repeals Act* 31, 1838, S. 8.

11. *On an indictment for robbery defendant may be convicted only of an assault with intent to rob.*

12, 13. *Person indicted for misdemeanor not to be acquitted on ground that a felony is proved; and* (13) *indicted for embezzlement not to be acquitted on ground that larceny was proved.*

14. *On an indictment of two persons for jointly receiving, one of them may be convicted of separately receiving.*

15. *Accessories or receivers in any number may be charged with substantive felony, without principal offender, &c.*

16, 17. *Three larcenies may be included in same indictment; and* (17) *under indictment for one larceny, three may be proved, &c.*

18. *Averments respecting money or bank-notes need not specify the amount of money or notes.*

19. *In indictment for perjury and false affirmations, &c. formal statement of all the proceedings connected with the perjury need not be set forth.*

20. *The like as to indictments for subornation of perjury.*

21. *Certain formal defects specified, shall not vitiate indictments.*

22. *Formal objections to indictment to be taken before jury sworn, and may be amended.*

23. *Abolishes the right to traverse, but empowers the Court to allow time or adjourn the trial.*

24. *Empowers defendant to plead generally* AUTREFOIS, CONVICT *or* ACQUIT.

25. *Empowers the Court to add hard labour to other punishment for specified offences.*

26. *Interpretation clause.*

27. *Act to commence from* 10*th April,* 1852.

An Act for further Improving the Administration of Criminal Justice in Her Majesty's Courts of Justice in the Territories of the East India Company.

Whereas offenders frequently escape conviction on their trials, by reason of the technical strictness of criminal proceedings in matters not material to the merits of the case; and whereas such technical strictness may safely be relaxed in many instances, so as to insure the punishment of the guilty, without depriving the accused of any just means of defence; and whereas a failure of justice often takes place on the trial of persons charged with felony and misdemeanor by reason of variances between the statement in the indictment on which the trial is had, and the proof of names, dates, matters, and circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot have been prejudiced in his defence, It is hereby enacted as follows:

The Court may amend certain variances not material to the merits of the case, and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.

I. From and after the coming of this Act into operation, whenever, on the trial of any indictment for any felony or misdemeanor, there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the Court before which the trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every

other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury, as such Court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred: provided that, in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the defendant, and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried, at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizance to appear and prosecute, or give evidence, at the time and place to which such trial shall have been so postponed: Provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

Verdicts and judgments valid after amendments.

II. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

Records to be drawn up in amended form, without noticing the amendments.

III. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment was after such amendment was made, without taking any notice of the fact of such amendment having been made.

IV. In any indictment for murder or manslaughter preferred

The means by which the injury was inflicted need not be specified in indictments for murder and manslaughter.

after the coming of this Act into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient, in every indictment for murder, to charge that the defendant did feloniously, wilfully, and of his malice afore-thought kill and murder the deceased, and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

Forms of indictment in cases of forgery and uttering, stealing, and embezzling, or obtaining by false pretences.

V. In any indictment for forging, uttering, stealing, embezzling, destroying, or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same, or the value thereof.

In engraving plates, &c.

VI. In any indictment for engraving or making the whole or any part of any instrument, matter, or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter, or thing.

In other cases.

VII. In all other cases, wherever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

VIII. From and after the coming of this Act into operation. it shall be sufficient in any indictment for forging, uttering, offering, disposing of, or putting off any instrument whatsoever, or for obtaining or attempting to obtain any property by false pretences, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.

Intent to defraud particular persons need not be alleged or proved in cases of forgery, uttering, of false pretences.

IX. And whereas offenders often escape conviction by reason that such persons ought to have been charged with attempting to commit offences, and not with the actual commission thereof; it is enacted, that if on the trial of any person charged with any felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or disdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

X. And whereas it is enacted by the 8th Section of Act XXXI. of 1838 that "on the trial of any person for any of the offences thereinbefore mentioned, or for any felony whatever where the crime charged shall include an assault against the person, it shall be lawful for the jury to acquit of the felony, and to find a

Repeal of the 8th Section of Act XXXI. of 1838.

verdict of guilty of assault against the person indicted, if the evidence shall warrant such finding": and whereas great difficulties have arisen in the construction of such enactment: for remedy thereof it is enacted that the said enactment shall be and the same is hereby repealed.

On the trial of an indictment for robbery, the jury may convict of an assault with intent to rob: no person so tried to be afterwards prosecuted for the same.

XI. If upon the trial of any person upon any indictment for robbery, it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Person tried for misdemeanor not to be acquitted if the offence turn out to be felony, unless the Court so direct.

XII. If upon the trial of any person for any misdemeanor, it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Persons indicted for embezzlement, as a clerk, &c. not to be acquitted if the offence turn out to be larceny, and *vice versa*.

XIII. If upon the trial any person indicted for embezzlement as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty

of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement; and no person so tried for embezzlement or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

Upon an indictment for jointly receiving, persons guilty of separately receiving may be convicted.

XIV. If upon the trial of two or more persons indicted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Separate accessories and receivers may be included in the same indictment in the absence of the principal felon.

XV. And whereas it frequently happens that the principal in a felony is not in custody or amenable to justice, although several accessories to such felony or receivers at different times of stolen property the subject of such felony may be in custody or amenable to justice; for the prevention of several trials, it is enacted that any number of such acessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Three larcenies from the same person within six months may be included in the same indictment.

XVI. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within

the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where a single taking is charged, the prosecutor need not elect, unless where more than three takings, or more than six-months between the first and last taking.

XVII. If upon the trial of any indictment for larceny, it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six calendar months elapsed between the first and the last of such takings; and in either of such last mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six calendar months from the first to the last of such takings.

Coin and bank-notes may be described simply as money.

XVIII. In every indictment in which it shall be necessary to make any averment as to any money or any note of any bank, it shall be sufficient to describe such money or bank-note simply as money without specifying any particular coin or bank-note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank-note, although the particular species of coin of which such amount was composed, or the particular nature of the bank-note, shall not be proved, and in cases of embezzlement and obtaining money or bank-notes by false pretences, by proof that the offender embezzled or obtained any piece of coin, or any bank-note, or any portion of the value thereof although such piece of coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Simplifying indictments for perjury and other like offences.

XIX. In every indictment for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or

before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed, or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

As to form of indictments for subornation of perjury and other like offences.

XX. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit deposition, bill answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendants unlawfully, wilfully, and corruptly did cause and procure the said person the said offence, in manner and form aforesaid to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

What defects shall not vitiate an indictment.

XXI. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute," instead of "against the form of the statutes," or *vice versâ*, nor for that any person mentioned in the indictment is designated by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time

imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil, is not of the essence of the offence.

Formal objections to indictments shall be taken before jury are sworn, Court may amend any formal defect.

XXII. Every objection to any indictment for any formal defect apparent on the face thereof shall be taken, by demurrer or motion to quash such indictment, before the jury shall be sworn, and not afterwards; and every Court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some Officer of the Court, or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Provision as to traversing indictments.

XXIII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of the Peace, Session of Oyer and Terminer, or Session of Gaol Delivery; provided always that if the Court, upon the application of the person so indicted or otherwise, shall be of opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, such Court may adjourn the trial of such person to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session without entering into any fresh recognizance for that purpose.

Provision as to plea of *autrefois convict* or *autrefois acquit*.

XXIV. In any plea of *autrefois convict or autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment.

Punishment for certain indictable misdemeanors.

XXV. Whenever any person shall be convicted of any one of the offences following, as an indictable misdemeanor; that is to say,—any cheat or fraud punishable at Common Law: any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert, or defeat the course of public justice; any escape or rescue from lawful custody, on a criminal charge; any public and indecent exposure of the person; any indecent assault, or any assault occasioning actual bodily harm; any attempt to have carnal knowledge of a girl under twelve years of age; any public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisoned for any term now warranted by law, and also to be kept to hard labour during the whole or any part of such term of imprisonment.

Interpretation of terms.

XXVI. In the construction of this Act the word "indictment" shall be understood to include "information," "inquisition," and "presentment," as well as "indictment," and also any "plea," "replication," or other pleading; and the terms "finding of the indictment," shall be understood to include "the taking of an inquisition," "the exhibiting of an information," and "the making a presentment"; and wherever in this Act, in describing or referring to any person or party, matter, or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and shall be applied to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

Commencement of Act.

XXVII. This Act shall come into operation from and after the tenth day of April, one thousand eight hundred and fifty-two.

SUPREME COURT PROCEDURE.

ACT No. XVII. OF 1852.

[*Passed on the 12th March,* 1852.

1, 2, 3, 4. *Empowers all persons interested in any question cognizable by Supreme Court to concur in stating special case; and* (2) *provides for manner in which committee of lunatic may concur; and* (3) *married women; and* (4) *infants.*

5, 6, 7. *Special guardian of lunatic may be appointed for purpose of concurring; and also* (6) *guardian for infant; and* (7) *provides special guardain for charge of such infants.*

8, 9. *Prescribes a short concise method of stating special cases, and* (9) *requires that appointment of special guardain for purpose of concurring in case shall be shown to have been made.*

10, 11. *Special case to be signed by Counsel and filed, and defendants to appear, and* (11) *all parties to be bound by case stated.*

12, 13. *Directs special case to be set down for hearing; and* (13) *on hearing Court to give judgment, or may order amendment of case, or for reasons refuse to decide.*

14. *Judgment and orders on case to be sufficient warrant for all acts done in pursuance of them.*

15. *Empowers Court to suspend operation of its decree.*

16. *Declares filing of case to be* lis pendens.

17. *Provides for production, use and proof of documents.*

18, 19, 20. *Empowers Court on application of executors, &c. to order reference to master to take account of debts, &c. and report thereon, &c. and* (19) *provides for objection being taken to masters' report; and* (20) *directs mode of proceeding on such objection.*

21. *Empowers Court to order payment of debts found due by master's report.*

22. *Accounts under this Act may also be taken according to the usual function of master's office.*

23. *Provides for payment of contingent liability.*

24. *Court may restrain proceedings against executors by certain classes of persons.*

25. *Provides protection for executors, &c. in paying debts in certain cases.*

26. *Exceptions for scandal, impertinence and insufficiency in future to be heard by Court and not master.*

27. *Empowers the Court to receive proof by affidavit whenever it may see fit.*

28, 29, 30. *Empowers the Court to make general rules and orders for carrying out provisions of this Act, &c.* (29) *subject to disallowance by G. G. in C. and* (30) *in the meantime existing practice to continue.*

31. *Appeal, rehearing, and review to be allowed of all decrees, &c. under this Act.*

32. *Interprets certain words.*

33 *Act to commence from* 10*th April,* 1852.

Schedule. Form of order of reference.

An Act to diminish the expense and delay of proceedings in Her Majesty's Courts within the Territories of the East India Company.

Persons interested in questions cognizable in Her Majesty's Courts may state special cases for the opinion of such Courts.

I. It shall be lawful for persons interested or claiming to be interested in any question cognizable in Her Majesty's Courts within the Territories of the East India Company, on the Equity, Plea, Ecclesiastical or Admiralty sides thereof respectively, and including among such persons all lunatics, married women, and infants in the manner and under the restrictions hereinafter contained, to concur in stating such question in the form of a special case for the opinion of the said Courts, and it shall also be lawful for all Executors, Administrators, Representatives, and Trustees to concur in such case.

How lunatic may concur.

II. The Committee of the estate of any lunatic interested or claiming to be interested in any such question as aforesaid may, after having been authorized in that behalf by the Court or any Judge thereof in which such special case is filed, concur in such case in his own name, and in the name and on the behalf of the lunatic.

How married women may concur.

III. A husband interested or claiming to be interested in right of his wife in any such question as aforesaid may concur in such case in his own name and in the name of his wife where the wife has no claim to any interest distinct from her husband, and a married woman having or claiming any interest in any such question as aforesaid distinct from her husband may in her own right concur in such case, provided that her husband also concurs therein; but nothing herein contained shall be construed so as to require the husband of a Mahomedan or Hindoo female to concur in such case.

How infant may concur.

IV. The guardain of any infant interested or claiming to be interested in any such question as aforesaid may concur in such case in the name and on the behalf of the infant, unless such guardian has an interest in such question adverse to the interest of the infant therein.

V. It shall be lawful for the said Courts, by order to be made in the matter of any lunatic not found such by inquisition, or in the matter of any infant upon the application of any person on the behalf of such lunatic, or upon the application of such infant, by motion or petition, to appoint any person shown by affidavit to be a fit person, and to have no interest adverse to the interest of the lunatic or infant, to be the special guardian of such lunatic or infant for the purpose of concurring in such case in the name and on behalf of the lunatic or infant, and any such person so appointed may lawfully so concur. Provided always, that it shall be lawful for the said Courts to require notice of such application to be given to such person, if any, as the Court shall think fit.

How special guardian to be appointed for a lunatic not found such by inquisition and for infant.

VI. In any case in which any such order as aforesaid shall have been made by the said Courts, in the matter of any infant without notice to the guardian of the infant, it shall be lawful for the said Courts, if they shall respectively think fit so to do, to discharge such order upon the application of such guardian, by motion or petition; and the said Courts, if they shall respectively think fit, may thereupon appoint some other fit person to be the special guardian of such infant for the purpose of such special case, and may also give such directions as may be necessary for substituting in such special case either the name of the guardian so applying, or of the special guardian so appointed, in lieu of the name of the special guardian so displaced. Provided always, that the discharge of any Order appointing a special guardian shall not invalidate any thing which shall in the meantime have been done by such special guardian, unless the Court shall upon notice to all parties specially so direct.

Order to appoint special guardian of an infant may be discharged by Courts if made without notice.

VII. Every such special case shall be entitled as a cause between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and in the title to such cases, lunatics and infants shall be described as such, and their Committees, guardians, or special guardians named; and where in any such

How special cases to be entitled.

case a married woman is named as a plantiff, and her husband as a defendant thereto, a next friend of such married woman shall be named in the title to such case; but nothing herein contained shall be construed so as to require a next friend of any Hindoo or Mahomedan married woman to be named in such title.

Form of special case.

VIII. Every such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby; and upon the hearing of such case, the Court and the parties shall be at liberty to refer to the whole contents of such documents; and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference which the Court might have drawn therefrom if proved in a cause.

Special case to state how guardain constituted, and the concurrence of married women.

IX. Every such special case to which an infant or lunatic is a party by his guardian, or special guardian, shall also state how such guardian or special guardian was constituted; and where any married woman having or claiming any interest distinct from her husband is a party to such case, it shall be stated therein that she concurs in such case in her own right.

Special case to be signed by Counsel and filed, and appearances to be entered for defendants.

X. Every such special case shall be signed by Counsel for all parties, and shall be filed in the same manner as bills, plaints, or allegations are filed, and the defendants may appear thereto in the same manner as defendants appear to bills, plaints, or allegations, and no defendants shall be required to take an office copy of a special case, but an office copy thereof shall be taken by the plaintiff.

Parties to be bound by statements after defendants have appeared to special case.

XI. After a special case shall have been filed, and the defendants shall have appeared thereto, all the parties to such special case shall be subject to the jurisdiction of the Court in the same manner as if the plaintiff in the special case had filed a bill, plaint, or allegation against the parties named as defendants thereto, and such defendants had appeared to such bill, plaint, or allegation, and upon the special case being filed and appearances entered thereto as aforesaid, all parties to

such special case, shall, for the purposes of such special case, be bound by the statements therein.

How cases to be set down for hearing.

XII. So soon as all the defendants shall have appeared to the special case, the same may be set down for hearing, and subpœnas to hear judgment or notices of hearing, issued and served according to the practice of the said Courts.

Upon hearing Court to determine question and make declaration.

XIII. It shall be lawful for the said Court upon the hearing of any such special case as aforesaid, to determine the questions raised therein or any of them, and, by decree or judgment, to declare its opinion thereon, and so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration, and every such declaration of the said Court contained in any such decree or judgment shall have the same force and effect as such declaration would have had, and shall be binding to the same extent as such declaration would have been if contained in a decree or judgment made in a suit between the same parties instituted by bill, plaint, or allegation; provided always, that if upon the hearing of such special case as aforesaid, the Court shall be of opinion that the statements contained therein so far as the same affect the interest of any married woman, infant, or lunatic are not true, or that the questions raised thereby or any of them cannot properly be decided upon such case, the same may be at such hearing, with the consent of all parties thereto, and of the Court, amended, so as properly to raise such questions, or the said Court may refuse to decide the same.

Proviso that Court may refuse to decide.

Protection to be afforded to trustees by declaration.

XIV. Every executor, administrator, representative, trustee or other person making any payment or doing any act in conformity with the declaration contained in any decree or judgment made or pronounced upon a special case, shall in all respects be as fully and effectually protected and indemnified by such declaration, as if such payment had been made or act done under or in pursuance of the express order of the said Court made in a suit, action, or proceeding between the same parties instituted by bill, plaint, or allegation, save only as to any rights or

claims of any person in respect of matters not determined by such declaration.

The Court may suspend the acting upon declaration.

XV. Where any person shall be desirous to have a special case reheard, or to appeal from the decision thereon, it shall be lawful for the said Courts respectively upon application for that purpose, either at the time of the decree or judgement upon such special case being made, or at any time afterwards, and upon such conditions, if any, as the Court shall think fit, to order that the declaration contained in such decree shall not be acted upon for such time as the said Courts respectively shall think just.

Special case to be a *lis pendens*, and may be filed.

XVI. The filing of a special case, and the entering of appearances thereto by the persons named as defendants therein, shall be taken to be a *lis pendens*.

Mode of identifying documents, and Court may order production.

XVII. Any documents referred to in a special case, and any copies thereof or extracts therefrom, identified by the signature of the solicitors for all parties may be produced and read at the hearing of such case, without further proof; and it shall be lawful for the said Courts respectively, at any time after the filing of the special case, and the entering of appearances thereto by the persons named as defendants therein, to order any document, which may be admitted thereby to be in the possession of any party to such case, to be deposited and produced in such manner and for such purposes as the said Courts respectively shall think fit.

Court on application of executors or administrators, may by order of course direct it to be referred to Master to take an account of debts and liabilities.

XVIII. It shall be lawful for the said Courts upon the application of the executors, administrators or representatives in estate of any deceased person, by order to be made upon motion or petition of course, and to be in the form or to the effect set forth in the Schedule hereto with such variations as circumstances may require, to refer it to the Master of the said Courts respectively to take an account of the debts and liabilities affecting the estate of such deceased person, and to report thereon; provided always, that no such order shall be made until the expiration of one year next after the death of such deceased person, or pending any proceedings

to administer the estate of such person, and in case at any time after the making of such order, any decree or order for administering the estate of such deceased person shall be made, it shall be lawful for the said Courts respectively, by such decree or order, to stay or suspend the proceedings under such order of course on such terms and conditions, if any, as to the said Courts respectively shall seem just.

Master's Report may be objected to by motion to the Court, of which notice shall be given.

XIX. It shall be lawful for any person who may have come in before the Master under any such order, and claimed to be a creditor upon the estate of the deceased person, or to have any demand upon such estate by reason of any liability, and whose debt or claim may not have been wholly allowed by the said Master, to apply to the Court making such order by motion, of which notice shall be given within fourteen days after the filing of the Master's report, to have such claim allowed by such Court, either wholly or partially; and it shall be lawful for the said executors, administrators or representatives in estate, and for any creditor of the deceased person who may be authorized by special leave of the said Court so to do, to apply to the said Court by motion, of which notice shall be given within the time aforesaid, to have any debt or claim allowed by the said Master disallowed by the said Court, either wholly or partially, and, at the expiration of fourteen days after the filing of the said report, the same shall, except as to any debt or claim as to which any such notice as aforesaid may have been given, be absolute, as if the same had been confirmed by order of the said Court.

Proceeding of the Court on such motion.

XX. Upon the hearing of any such motion as aforesaid, the said Courts respectively may either dismiss such motion, or may order the debt or claim to which such motion relates to be allowed or disallowed, as the case may be, and either wholly or partially, or may direct further inquiry or further proceedings, by way of action or otherwise, touching such debt or claim, and after such inquiry or proceedings may, upon further motion, deal with such debt or claim as to the said Courts respectively shall seem just: provided always, that no new evidence shall be received by the said Courts upon the hearing of any such motion without special leave of the said Courts.

If debts or certain liabilities allowed and not paid or provided for, order may be made for payment or accounts.

XXI. In case any debt or any certain liability shall have been allowed as aforesaid, and shall not within fourteen days after the report has become absolute as to such debt or liability, or after the same shall have been allowed by the said Court, be paid or provided for by appropriation to the satisfaction of the person who has established such liability, it shall be lawful for the said Courts respectively by order to be made in case of any debt remaining due, upon the application by motion or petition of the person to whom the debt remains due, and on notice to the executors, administrators, or representatives in estate, and in case of any certain liability remaining unprovided for by appropriation upon the application by motion or petition of the person by whom such liability has been established, or of the executors, administrators, or representatives in estate, and on notice, by the party applying to the other of them, to order payment of the debts which may have been allowed and remain unpaid, and to provide for the certain liabilities which may have been allowed and remain unprovided for, in like manner as the same could or might have been paid or provided for in a suit for that purpose instituted by bill, or to refer it to the Master to take an account of the debts and certain liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual accounts of the estate of the deceased person, with all usual and proper directions; and every such order shall have the same force and effect and shall be prosecuted and carried on in like manner as a decree in a creditor's suit instituted by bill.

Accounts to be taken according to usual practice of the Courts.

XXII. Nothing in Sections XVIII. and XXI. of this Act contained shall be construed so as to prevent any of Her Majesty's Courts from taking such accounts as aforesaid in any manner in which, according to the usual practice of such Courts, the same might have been taken if directed by decretal order made in a suit.

Court, on application of executors or administrators, &c. may direct appropriation of money to answer contingent liability.

XXIII. In case any contingent liability shall be allowed by the said report or by the said Courts respectively, it shall be lawful for the said Courts, by order to be made upon the application of the executors, administrators, or representatives in estate, by motion or petition, on notice

to the person who may have established such contingent liability, to order such sum of money, part, or proceeds of part of the estate of the deceased person, as to the said Courts respectively shall seem just, to be set apart and appropriated for answering such contingent liability, and to give such directions as the said Courts shall think fit touching the payment of such sum of money into Courts, and the investment thereof, and the payment, application, or accumulation of the interest or dividends thereof in the mean time and until the same shall be required to answer such liability, and when such liability shall be ascertained or determined, to give such directions as to the payment of such sum out of Court as the said Courts respectively shall deem right: Provided always, that no order to be made as aforesaid shall in any manner bind the assets so appropriated as against the persons entitled to the estate of the deceased subject to the contingent liability; and any person interested in such appropriated assets may apply to the Court touching the same, as he may be advised.

Court may restrain proceedings against executors, administrators, &c.

XXIV. After the filing of such report as aforesaid, it shall be lawful for the said Courts respectively upon the application of the executors, administrators or representatives in estate of the deceased, by order, to be made on motion, to restrain by injunction any proceedings at law against them by any person having or claiming to have any demand upon the estate of the deceased by reason of any debt or liability other than the persons who may have established contingent liabilities under the said order for which no appropriation may have been made.

Protection to be afforded to executors, administrators, &c.

XXV. In case no debt or liability, or no debt or liability other than a contingent liability, shall have been allowed as aforesaid, or in case any debt or liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by appropriation as aforesaid, all payments made by the executors, administrators, or representatives in estate, or any of them, on account of the estate of the deceased person, and all dispositions of such assets made by them or any of them on account of such estate, shall, as against all persons

having or claiming to have any demand upon such estate by reason of any debt or liability, other than persons who may have established under the said order any contingent liability for which no such appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a decree of the said Courts respectively; Provided always, that nothing herein contained shall in any manner affect or prejudice the rights of any creditor or other person having any demand or claim upon the estate of the deceased against any assets so paid or disposed of, or against the persons to whom such payment or disposition may have been made, or against any assets appropriated under the provisions of this Act, and the appropriation of which, if made under a decree of the said Court, in a suit to which he was not a party, would not have been binding upon him.

Exceptions for scandal, impertinence and insufficiency to be heard by the Court.

XXVI. All exceptions for scandal, impertinence, and insufficiency, which according to the existing practice of the said Courts are referred to the Masters of the said Courts, shall not any longer be so referred, but shall be heard and determined in the first instance by the said Courts, or any Judge thereof.

Power for Court, notwithstanding any rule, &c. to the contrary, to receive proof by affidavit.

XXVII. Notwithstanding any rule or practice of the said Courts to the contrary, it shall be lawful for the said Courts respectively, at the hearing of any cause or of any further directions therein, to receive proof by affidavit or otherwise of all proper parties being before the Court, and of all such matters as are necessary to be proved for enabling the said Courts respectively to order payment of any moneys belonging to any married woman, and of all such other matters, not directly in issue in the cause, as in the opinion of the said Courts respectively may safely and properly be so proved.

Her Majesty's Courts to make General Rules and Orders from time to time.

XXVIII. It shall be lawful for the said Courts respectively, from time to time, to make, rescind, and alter General Rules and Orders for better enabling the opinion of the said Courts respectively to be obtained on special cases, and for effectuating the purposes of this Act as to the debts and liabilities of deceased persons, and for making any provisions which may be

or be deemed necessary or proper as to amendment, revivor and supplemental matter or relief, and as to costs of any proceedings under or in pursuance of this Act, and for regulating the times and form and mode of procedure and practice of the said Courts in respect of the matters to which this Act relates, and every of them, and so far as may be found expedient for altering the course of proceeding hereinbefore prescribed in respect to such matters or any of them, and generally for assimilating the practice of the said Courts respectively to that of the High Court of Chancery in England.

Rules and Orders to be laid before the Governor General in Council, and to be binding from the time appointed or from the making unless objected to.

XXIX. All such General Rules and Orders shall be laid before the Governor General of India in Council within one month after the making and issuing of the same, and every such Rule or Order shall, from and after the time in that behalf to be appointed by the said Courts respectively, and if no time shall be so appointed, then from and after the making thereof, be binding and obligatory on the said Courts respectively, and be of like force and effect as if the provisions therein contained had been expressly enacted by the Governor General of India in Council. Provided always, that if the said Governor General of India in Council shall, by any resolution passed at any time within six months after such Rules, Orders, and Regulations shall have been laid before him, resolve that the whole or any part of such Rules or Orders ought not to continue in force, in such case the whole or such part thereof as shall be so included in such resolution shall, from and after the time that such resolution is notified to the said Court, cease to be binding and obligatory on the said Court; provided that every such Rule or Order so made or expressed to be made in pursuance of this Act which shall not be laid before the Governor General of India in Council within the time by this Act limited for that purpose shall, from and after the expiration of such time, be absolutely void and of no effect. Provided always, that nothing in this clause contained shall be construed so that the said Rules or Orders should not be transmitted as heretofore to Her Majesty in Privy Council for approbation.

XXX. In the mean time and until any such General Rules

Until Rules or Orders are made, and if not applicable when made, practice to be according to this Act and practice of the Courts.

or Orders shall be made and in so far as the same, when made, shall not be applicable, the proceedings under this Act shall be governed and regulated by the provisions herein contained, so far as the same extend, and in so far as the same do not extend shall, as well with respect to the persons who ought to be made parties to special cases as in every other respect, be governed and regulated by the Rules, Orders and Practice of the said Courts respectively, in suits instituted by bill, so far as the same can be applied thereto; and subject to such General Rules and Orders as aforesaid, the costs of all proceedings under this Act, shall be in the discretion of the said Courts respectively.

Decrees and Orders to be subject to appeal, &c.

XXXI. All decrees and orders made under the provisions of this Act, shall be subject to rehearing, appeal, and reveiw, and may be discharged and varied in the same and the like manner as decrees and orders of the said Courts made in suits instituted by bill.

Interpretation of Terms.

XXXII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or in the context repugnant to such construction:

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Words importing the masculine gender only shall include females:

The expression "Her Majesty's Courts" or "Courts" shall mean and include Her Majesty's Supreme Courts of Judicature at Bengal, Madras and Bombay, and also the Court of Judicature of Prince of Wales' Island, Singapore and Malacca:

The word "Lunatic" shall include idiots and persons of unsound mind, and whether found such by inquisition or not:

The word "Guardian" shall mean father or testamentary guardian, or guardian appointed by any of Her Majesty's Courts, (not being a special guardian appointed under the Provisions of this Act.)

XXXIII. This Act shall commence and take effect from and after the tenth day of April, One thousand eight hundred and fifty-two.

Commencement of Act.

SCHEDULE REFERRED TO BY THE FOREGOING ACT

(*Date*)

In the matter of A. B. late of in Banker (or as the case may be), deceased.

Upon motion this day made into this Court by Mr. of Counsel for C. D. of the executor (*or* administrator) of the abovenamed A. B. *or* upon the humble petition of C. D. of the executor (*or* administrator) of the said A. B. this day preferred unto the Supreme Court of Judicature at (for the reasons therein contained,) it is ordered; that it be referred to the Master of this Court to take an account of the debts and liabilities affecting the (*personal or the real estate of the said A. B. or his moveable and immoveable estate as the case may be*), and to compute interest on such of the said debts and liabilities as carry interest, after the rate of interest the same respectively carry; and the said Master is to cause an advertisement to be published in the Gazette and such other public papers as he shall think fit for the persons claiming in respect of any such debts or liabilities, to come in before the said Master and prove their debts and claims, and he is to fix a peremptory day for that purpose; and such of the creditors as shall not come in and prove their debts and claims by the time so to be limited, are to be excluded the benefit of this order; and it is ordered, that the Master do distinguish debts from liabilities and liabilities certain from liabilities contingent; and and it is ordered, that the said estate of the said A. B. be applied in payment and satisfaction of such debts and liabilities of the said A. B. in a due course of administration; and for the better taking the said accounts and discovery of the matters aforesaid the parties are to produce before the Master, upon oath, all deeds, books, papers and writings in their custody or power relating thereto, and are to be examined upon interrogatories or *vivâ voce* as the said Master shall direct: and any of the parties are to be at liberty to apply to the Court as there shall be occasion.

BENGAL.—PLEADERS.

ACT NO. XVIII. OF 1852.

[*Passed on the 19th March*, 1852.

1. *Repeals Bengal regulations, R.* 26 *of* 1814, *cl.* 4, *s.* 5 *and s. s.* 6, 7, 8, 10, 11, 13, 14, 15; *R.* 27, 1814, *cl.* 3, *s.* 9, *and cl.* 6, *s.* 20; *R.* 10, 1829, *s.* 18, *and Act* I. 1846, *s s.* 10, 11.

2. *Pleader to be liable to dismissal on conviction of breach of trust, or professional fraud or dishonesty.*

3. *Prescribes what shall be sufficient proof of such conviction for order of dismissal.*

4. *Prescribes the form of procedure for dismissal of pleader.*

5. *Vests the power of dismissal in sudder and zillah Courts respectively as to their respective pleaders.*

6. *Gives appeal against order of zillah judge.*

7. *Abolishes power of Courts to fine pleaders except for obstructions to justice.*

An Act to amend the Law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.

Whereas the laws in force relating to pleaders, practising in the Courts of the East India Company, in the Lower Provinces of the Presidency of Bengal, require amendment, It is enacted as follows:

I. Clause 4, Section V. Regulation XXVI. of 1814, and Sections VI., VII., VIII., X., XI., XIII., XIV., XV., Clause 3, Section IX. and Clause 6, Section XX. of Regulation XXVII. of 1814; and Section XVIII. Regulation X. of 1829, of the Bengal Code, and Sections X. and XI. of Act I. of 1846, so far as regards the said Courts and the pleaders therein, are hereby repealed.

II. Any pleader practising in the said Courts shall be liable to dismissal on proof of his conviction by a competent Court of a criminal offence, or on proof of a declaration or finding by a competent Court, in a suit or proceeding to which such pleader was a party, that he has knowingly committed a breach of trust, or for fraudulent or dishonest conduct in the discharge of his professional duty.

III. When a competent Court has convicted a pleader of a criminal offence, or has declared or found, in a suit or proceed-

ing to which such pleader was a party, that he has knowingly committed a breach of trust, the Court competent to dismiss such pleader may make an order for his dismissal on the production of an authenticated copy of the judgment or decision containing such conviction, declaration, or finding, and on proof, to the satisfaction of the Court, that such judgment or decision has not been set aside or reversed, and that the pleader is the party to whom such conviction or decision relates.

IV. When any pleader is charged with fraudulent or dishonest conduct in the discharge of his professional duty, by any person or Court, the Court competent to make an order for his dismissal, shall serve, or cause to be served, upon such pleader a copy of the charge or charges brought against him, and also a notice of the day appointed by the said Court for the hearing of such charge or charges, and such copy and notice shall be served upon the said pleader at least twenty clears days before the day appointed for such hearing: and on the hearing of the said charge or charges the Court shall receive all such relevant evidence as shall be properly tendered by, or on behalf of the Court or party bringing the charge or charges, or by the said pleader, and shall proceed to adjudicate on the said charge or charges in a summary way, and shall record its decision, and the reasons on which the same is grounded. Provided always, that the Court which is competent to dimiss a pleader, shall also be competent to bring a charge or charges and proceed against him as aforesaid, and may also hear and adjudicate upon such charge or charges in manner hereinbefore mentioned. Provided also, that the evidence of witnesses on such hearing shall be taken and made upon oath, and every witness who shall give false evidence at such hearing shall be liable on conviction to punishment for perjury, in like manner as witnesses examined in civil or criminal trials.

V. The power of dismissing pleaders practising in the Sudder Court of the said Provinces is vested in the Judges of that Court; the power of dismissing pleaders practising in the Courts of the Zillah Judges, or in Courts subordinate to them, in the said Provinces, is vested in the Zillah Judges, respectively.

VI. An appeal from the order of any Zillah Judge, for the dismissal of a pleader, may be made to the Sudder Dewanny

Adawlut, according to the Rules in force for the admission of appeals.

VII. It shall not be lawful for any of the said Courts of the Lower Provinces of the said Presidency to impose any fine on any pleader practising in the said Courts, except such fine as may be imposed under the provisions of Act XXX. of 1841.

TOWN OF MADRAS.--ABKARRY REVENUE.

ACT No. XIX. OF 1852.

[*Passed on the* 19*th March* 1852.

1. *Repeals Madras R.* 1, 1813, *and* 33 *G.* 3 *c.* 52 *s.* 159 *as respects Madras.*

2, 3. *Places collection of Abkarry Revenue under Collector; and* (3) *empowers him to appoint collecting officers.*

4, 5. *Prohibits retail sale of spirits without licence; and* (5) *defines what shall be "retail sale."*

6. *Licence must specify certain things, but Board of Revenue may regulate form of it.*

7. *Prohibits sale of Arrack and other country spirits in larger than specified quantities.*

8. *Counterpart of licence to be executed by trader.*

9. *Licence may be withheld or recalled on notice.*

10. *Regulates the export of spirits manufactured east of the Cape of Good Hope.*

11. *Regulates the mode of warehousing and keeping spirits manufactured by European process.*

12. *Justices not to grant licence to Lodging Houses, &c. in which spirits may be sold till after licence has been obtained from Collector.*

13. *Collector after demand may levy arrears of tax, &c. due under licence, by distress.*

14. *Breaches of condition of licence punishable by fine.*

15. *Persons, not licensed dealers, having above specified quantity of certain spirits unprotected by pass, &c. to be liable to fine.*

16. *Makes liable to confiscation illicit spirits, &c. and the vessels, &c. containing them.*

17. *Empowers any Abkarry officer above a peon to enter houses of licensed dealers.*

18. *Directs where dealer shall keep his licence, &c. under a penalty.*

19. *Empowers Abkarry officer to stop and detain persons in the street or in shops, &c. having spirits, &c. without pass, &c.*

20. *Empowers Collector to issue warrant to enter suspected places and seize liquor, &c.*

21. *Requires constables, &c. to aid Abkarry officers.*

22, 25. *Directs that persons seized for breaches of Abkarry Laws shall be carried before Collector, and* (25) *officer not doing so liable to fine.*

23. *Persons laying malicious information liable to fine.*

24. *Persons molesting or obstructing Abkarry officer liable to fine.*

25. *Supra.*

26. *Abkarry officers making vexatious or unnecessary seizure, liable to fine.*

27. *Extends to town of Madras R.* 1, 1820 *s. s.* 4, 5, 6, *and Act* 32, 1845, *with specified exceptions.*

28. *Empowers G. of Fort St. George in C. &c. to revise form of licences, &c.*

29. *Abkarry officer unlawfully releasing, &c. any person arrested, liable to fine.*

30. *Forbids the asking or taking gratuities, &c.*

31, 32. *Cases of seizure of goods for breach of Abkarry laws to be determined by Superintendent of Police; and* (32) *in case of goods seized and no one claiming them within a month, Superintendent of Police to order concerning them.*

33. *All fines leviable under this Act to be adjudged by Superintendent of Police.*

34. *Imposes for a second offence imprisonment in addition to penalty.*

35. *Half the fine to be given to Abkarry officers, the other half to informer, and Board of Revenue may reward officers.*

36. *Fines not otherwise disposed of to belong to government, but half may be disposed of as rewards.*

37, 38. *No writ of Certiorari to apply to proceedings under this Act; and* (38) *actions against Abkarry officers to be brought in Courts of E. I. Co.*

39. *Empowers Collector to punish for contempts.*

40. *Interpretation clause.*

An Act for securing the Abkarry Revenue of Madras.

For better securing the Abkarry Revenue of the Town and Suburbs of Madras, It is enacted as follows:

I. Regulation I. of 1813 of the Madras Code, and so much of Clause 159 of an Act of Parliament numbered Chapter LII. of the Statutes passed in the thirty-third year of King George the Third, as relates to the sale of Arrack or other spirituous liquors within the Town of Madras, and to the punishment of unlicensed traders in spirits or spirituous liquors within the said Town, are repealed.

II. The collection of the Revenue arising from the retail sale of spirituous or fermented liquors within the Town and Suburbs of Madras, shall be under the charge of the Collector of Madras, who shall perform the duties connected therewith under the control of the Board of Revenue.

III. The Collector may appoint Conicopolies, Pygusts, Jema-

dars, Peons and other Officers for collection of the said Revenue and prevention of smuggling; and the Officers so appointed, besides their ordinary respective designations, shall be styled "Abkarry Officers."

IV. Every person who shall sell by retail any spirituous or fermented liquors within the Town and Suburbs of Madras without a licence for that purpose, under the hand and seal of the Collector of Madras, shall be liable to a fine not exceeding Five Hundred Rupees for each sale, but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wine, or Spirits, as may appear to the Collector to be intended only as samples.

V. A sale of European Spirits in a less quantity than two and a half gallons old Wine measure, (*i. e.* one dozen quart bottles,) and of Arrack or Rum or any other Spirits manufactured to the Eastward of the Cape of Good Hope in a less quantity than one quart, and of English and Foreign Beer or Wine in a less quantity than six quart bottles, and of Toddy in a less quantity than one quart, shall be deemed a retail sale within the meaning of this Act.

VI. The Board of Revenue shall have authority at all times to regulate the form and provisions of licences to be granted under this Act, and to alter and add to the conditions thereof; and each licence shall distinctly specify the kind or kinds of liquor the holder is authorized to sell, the manner in which and source whence such liquor is to be supplied to him, the excise duty, not exceeding three rupees and eight annas per gallon, which he shall pay upon it, whether it be provided by the Officers of Government or otherwise, or should a fee upon the licence be substituted for the said excise duty, the amount of such fee. The licence shall further specify the district or place, street or road, and house or shop in which the sale is to be carried on.

VII. The sale of Arrack or Rum or other country Spirits, or of Toddy, in quantities larger than those specified for each article in Section V. of this Act, is prohibited: and every person who shall act in breach of this prohibition, shall be liable to the fine prescribed in Section XV. for the illicit possession of these articles; but this prohibition does not apply to the sale of spirituous or fermented liquors imported into Madras under passes

from the Collector, or other Officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Rum under bond for exportation by sea, and covered by a certificate to that effect.

VIII. Every person taking out a licence for the retail sale of spirituous or fermented liquors or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such licence.

IX. The Collector may withhold or recall a licence, if any of the conditions upon which the licence is granted be not complied with, or, with the sanction of the Board of Revenue, for any other cause, giving fifteen days' notice of such withdrawal: and any person selling by retail any spirituous or fermented liquor within the Town and Suburbs of Madras, whilst such licence is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of spirituous or fermented liquors.

X. No spirituous liquor manufactured Eastward of the Cape of Good Hope, shall be removed from the Sea Custom House to any Warehouse, Shop, or private dwelling, or from one Warehouse, Shop, or private dwelling to another, without the Permit of the Collector of Madras, which Permit must accompany all liquors so removed, but persons having paid the Sea Custom Duty, shall be entitled to dispose of such liquor by wholesale for exportation beyond the limits of Madras and its Suburbs, such export to be made under permits to be granted by the Collector of Madras at his discretion, and on proof to his satisfaction that the spirits are intended to be exported.

XI. All spirituous liquors manufactured by the European method of distillation shall, when imported into the Town and Suburbs of Madras by land, be placed under the charge of the Collector of Sea Customs, who will have them gauged and tested. The said liquors may be either kept in the custody of the Importer on his furnishing security for their exportation or sale, under the provisions of Section II. Act XXXII. of 1845, or in the joint custody of the Collector of Sea Customs and the Importer, or they may be deposited in the Sea Custom Warehouse on payment of the usual Warehouse rent. When kept in such joint custody, or deposited in such Warehouse as aforesaid, no

security for their exportation or sale shall be required, and the amount and nature of the security required to be furnished when such liquors are kept in the custody of the Importer, shall be fixed by the Governor of Fort St. George in Council, who shall also determine the time to be allowed for their exportation.

XII. It shall not be lawful for the Justices to grant a licence to open or establish, or keep open any Lodging House, Boarding House, Eating House, Punch House, Coffee Room, Tavern, Hotel, or any other House of Public Entertainment within their jurisdiction, in which any spirituous or fermented liquor may be sold, to any person who has not taken out a licence for the retail sale of such liquor, and any such licence granted by the Justices shall become void whenever the licence for the retail of such liquor granted to such person, shall be withheld or recalled by the Collector under this Act. Provided always that, on the representation of the Superintendent of Police to the Collector, that any such house of public entertainment as aforesaid is kept as a disorderly house, or that the keeper thereof is, for any reason, or in consequence of misconduct, (such reason or misconduct to be specially assigned by the Superintendent,) unfit to receive or retain any such licence, then and in such case the said Collector shall forthwith revoke any licence already granted by him to such keeper of any such house of public entertainment.

XIII. The Collector, after demand made in writing, may levy any arrears of tax, duty, or fee, due on account of any licence granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due: provided that no such arrears shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

XIV. A breach of any of the conditions of a licence granted under this Act, shall, besides forfeiture of the licence, be punishable by a fine not exceeding Fifty Rupees, and such fine shall be recoverable from the licensed dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

XV. Any person, not being a licensed dealer, having in his possession, and any person carrying within the Town and Suburbs of Madras any greater quantity of spirituous or fermented liquors, (excepting English and Foreign Beer, Wine, and Spirits,) than the quantity specified for each article in Section V., and not being protected by a Pass or Permit from the Collector or other Officer duly empowered in that behalf, shall be liable to a fine not exceeding Five Hundred Rupees.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors, all such liquors found in the possession of any offender against this Act, shall be seized and confiscated, together with the Vessels, Packages and Coverings in which such liquors are found, and the animals and conveyances used in carrying them shall also be liable to seizure and confiscation.

XVII. Any Abkarry Officer above the rank of Peon, may enter, inspect, and search, at any time, by day or by night, for any of the purposes contemplated in this Act, the house or shop in which any licensed retail dealer shall carry on the sale of spirituous or fermented liquor under this Act.

XVIII. Every person, holding a licence for the retail sale of spirituous or fermented liquors, shall keep such licence at the house or shop specified in the licence, and shall show the licence on the demand of any Abkarry Officer who shall desire to see the same; and any licensed dealer, who shall refuse or be unable to produce his licence on the demand of any Abkarry Officer, shall be liable to a fine not exceeding Two Hundred Rupees.

XIX. Any Abkarry Officer may stop and detain any person having possession of or carrying in any Public Road, Street, Thoroughfare or place, or in any open shop, any spirituous or fermented liquors without a Pass, or otherwise liable to confiscation under this Act, and may seize the liquors, with the Vessels, Packages, and Coverings in which the liquors are found, and the animals and conveyances used in carrying them.

XX. If the Collector has good reason to believe, either from information given by any Abkarry Officer, or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case that any spirituous or fermented liquor liable to confiscation under this Act, is kept or concealed

in any place, the Collector, by warrant under his hand, may empower any Abkarry Officer, above the rank of Jemadar of Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the Peace, to enter into every such place where any such liquor is suspected to be kept or concealed, and to seize and carry away such liquor, and in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal, as aforesaid, and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquor whom he shall find on the premises. Provided that, where there is ground to suspect that such liquor is unlawfully concealed in any apartment of the women, in houses belonging to the classes whose women do not appear in public, the Officer charged with the execution of the Warrant, shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort St. George.

XXI. All Constables and other Ministerial Officers of the Peace, are required to aid the Abkarry Officers in the due execution of this Act, upon notice given, or request made by any such Abkarry Officer; and any Officer who, without lawful excuses, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section XXIX. of this Act for Abkarry Officers conniving at the escape of a person arrested under this Act.

XXII. Whenever an Abkarry Officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors, or shall enter any house or shop for the purpose of searching for such illicit liquors, he shall carry the person arrested, with the illicit liquors seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all the particulars. And the Collector, after such further inquiry as he may deem necessary, shall forthwith either release the person arrested, or send him in custody to the Superintendent of Police, or one of his Deputies.

XXIII. Every person who shall maliciously give false information against any person, for being engaged in the unlicensed

sale of spirituous or fermented liquors, or for having in his possession or carrying, or in respect of there being in any house or shop, any spirituous or fermented liquors, in contravention of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, or to imprisonment in the Common Gaol, for a period not exceeding six months, or to both.

XXIV. Every person who shall obstruct or molest any Abkarry Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, and such person shall be further liable, if any affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by Law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

XXV. Any Abkarry Officer, who shall delay carrying to the Collector any person arrested, or any illict liquors seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, shall be liable to a fine not exceeding Two Hundred Rupees.

XXVI. Any Abkarry Officer, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit spirituous or fermented liquors, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall be liable to a fine not exceeding Five Hundred Rupees.

XXVII. The provisions regarding Distilleries and Stills in Sections IV., V., VI. Regulation I. of 1820 of the Madras Code and Act XXXII. of 1845, shall apply and be in force within the Town and Suburbs of Madras, except that the powers vested in the Criminal Judge by Section IV. Clause 5, and Section VI. Clause 9 Regulation I. of 1820, of the Madras Code, and in the Session Judge and Subordinate Judge of the Zillah, by Sections IV., V., Act XXXII. of 1845, shall be exercised within the limits of the jurisdiction of the Supreme Court by the Superintendent of Police.

XXVIII. It shall be competent to the Governor of Fort Saint George in Council, or to any Officer duly empowered by

him in that behalf, to revise, from time to time, the forms of licences to be granted under Section IV. Regulation I. of 1820, of the Madras Code, for the establishment of Distilleries for manufacturing Rum, Arrack, or other Spirits by process of distillation similar to the European process, and to introduce into such forms of licences such provisions and stipulations as may seem to be advisable, anything in Section II. Act XXXII. of 1845, to the contrary notwithstanding.

XXIX. Any Officer employed in the Abkarry Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors without a licence, or by any licensed dealer contrary to the terms of such licence, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkarry Revenue be defrauded, shall be liable to a fine not exceeding Five Hundred Rupees.

XXX. Any Officer employed in the Abkarry Department, who shall ask or take any gratuity not authorized by any law or order of Government, or of the Board of Revenue, in consideration of doing or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding Five Hundred Rupees.

XXXI. When any goods or chattels shall be seized by an Abkarry Officer, as liable to confiscation under this Act, such seizure shall upon information exhibited by order of the Collector, be heard and determined in a summary manner by the Superintendent of Police or one of his Deputies, who shall cause the persons to whom such goods and chattels belong, to be summoned to appear, and upon their appearance or default, shall examine into the cause of the seizure thereof and give judgment; and, if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Revenue.

XXXII. Whenever any goods or chattels shall be seized as aforesaid, and within one calendar month no person shall appear

before the Collector to claim the same, the Superintendent of Police or one of his Deputies, shall examine into the cause of the seizure, at a place and time, of which notice shall have been given by the Collector in the *Fort St. George Gazette*, and give judgment for the confiscation of such of the goods and chattels as, upon such examination, shall appear to him liable to forfeiture; and upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend before the said Superintendent or one of his Deputies.

XXXIII. All fines leviable under this Act shall be adjudged by the Superintendent of Police, or one of his Deputies, any of whom, upon information exhibited before him by order of the Collector, shall, within three calendar months next after the act by which the fine was incurred and not afterwards, summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath, or solemn affirmation, (in cases wherein a solemn affirmation is receivable by law instead of an oath,) of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable by Warrant of the said Superintendent of Police or one of his Deputies, to imprisonment in the Common Gaol, for a period not exceeding six months, or until the fine be sooner paid.

XXXIV. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Common Gaol, for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months, shall be incurred in addition to the punishment which may be inflicted for a first offence upon every subsequent conviction after the second.

XXXV. One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale, of spirituous or fermented liquors, and of the proceeds from the sale of liquors, vessels, packages, conveyances, stills, and other things confiscated under this Act, shall, upon adjudication of the case, be awarded in such proportion as the Superintendent of Police or one of his Deputies, adjudicating as aforesaid, may think proper, to the

Officer or Officers who apprehended the offender or seized the illicit liquors or other articles,—and the other half shall be given to the informer; and if no fine be realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of Two Hundred Rupees, as may appear to them fit. Provided that the Board of Revenue may determine, by General Order, what class of Abkarry Officers shall receive rewards, and what classes shall have no tittle to share therein.

XXXVI. All fines levied under this Act, the disposal of which is not especially provided for, shall belong to Government; but the Officer adjudicating the case may grant any portion thereof not exceeding one-half, as rewards to informers, or as compensation to parties injured by any proceedings under this Act.

XXXVII. No writ of *Certiorari* shall be issued at the suit of any party out of the Supreme Court of Judicature at Fort St. George, to supersede, stay, remove, or in any wise affect any information or judicial proceeding before the Superintendent of Police or any of his Deputies in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

XXXVIII. All actions and prosecutions to be instituted against the Collector or any Abkarry Officer, or any person acting in aid of any such Officer, for anything done in pursuance of this Act, shall be tried and determined in the Civil Courts established by the East India Company in the Zillah of Chingleput, notwithstanding that the cause of action, in respect of which such action is brought, arose, or the defendant therein reside, within the limits of the Town of Madras, and every such action shall be brought within three calendar months after the fact committed and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant, one calendar month at least before the commencement of the action, and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the defendant.

XXXIX. The Collector, in respect of the duties to be performed by him under this Act, shall have power to punish any

contempt committed in his presence in open cutcherry by the imposition of a fine not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in the Common Goal for a period not exceeding one month. Provided that an appeal from any order passed under this Section shall lie to the Board of Revenue, and the decision of the Board thereon shall be final.

XL. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, that is to say, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular, and words importing the masculine gender only, shall include females. The words "Collector of Madras," shall mean the Officer who may at any time be charged with the superintendence and collection of the public revenue within the Town of Madras, although such Officer may not be officially designated "Collector of Madras." The words "Town and Suburbs of Madras," shall include the Town of Madras, the limits of the Supreme Court of Judicature at Madras as declared and described by the 12th Section of Regulation II. of 1802, of the Madras Code, and the district comprized within eight miles beyond any part of those limits.

MADRAS.--PUBLIC WORKS.

ACT No. XX. OF 1852.

[*Passed on the 27th March*, 1852.

1, 2, 3. *G. in C. may by minute declare land to be needed for public works; and* (2) *therefore order it to be taken possession of; and* (3) *such land shall be marked out and belong to government.*

4, 5, 6. *Officer taking the land is to notify the order in a public manner and cite parties interested to appear; and* (5) *officer may admit their claims and agree for compensation; or* (6) *if they cannot agree may refer dispute in manner following.*

7, 8, 9. *Directs in what manner arbitrators shall be appointed; and* (8) *that arbitrators shall appoint an umpire; and* (9) *umpire to decide only where a majority of arbitrators cannot agree.*

10. *Empowers the Collector to compel the arbitrators to attend and make the award.*

11. *Empowers the Collector to summon witnesses before arbitrators and to compel them to give evidence, &c.*

12. *Collector may compel the production of title deeds, &c. before arbitrators.*

13, 14. *Defines the mode of proceeding for arbitrators; and* (14) *makes their award conclusive, unless set aside by Civil Court for corruption, &c.*

15. *Empowers the Collector to hold compensation money if parties interested are minors, &c.*

16. *Directs how the award shall be made.*

17. *Prohibits proceedings for compensation except under this Act.*

18. *Makes bargain with parties apparently interested valid against all other parties after public notification, &c.*

19. *Permits diet money to be paid to witnesses.*

20. *Extends Act* 42, 1850, *to Madras.*

21. *Interpretation clause.*

An Act to facilitate the Acquisition of Land needed for public purposes in the Presidency of Fort St George.

I. Whenever it shall appear to the Governor of Fort St. George in Council that any land is needed for a public purpose, he shall make a declaration to that effect in a Minute of Council, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose.

II. When a declaration has been made by the Governor in Council that any land is needed for a public purpose, if there shall be any hinderance to the immediate acquisition of such land by purchase from the parties interested therein, it shall be competent to the Governor in Council to order the land to be taken possession of on the part of Government and applied to the purpose for which it is needed, leaving claims for compensation for the land to be determined as hereinafter provided.

III. When such order is passed by the Governor in Council it shall be sent to the Collector of the District in which the land lies, or to such other Officer as the Governor in Council shall think fit to appoint to carry it into execution; and the Collector or other Officer so appointed, shall cause the land ordered to be taken to be marked out and measured and possession to be taken thereof on behalf of Government, and the land shall thenceforward be vested absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts and interests, and also of all mortgages, liens, or incumbrances whatsoever, of and in the land so taken as aforesaid and any suit which may be instituted to recover the land so taken by Government, in any Court of Judicature, shall be dismissed with costs, Provided always, that nothing herein contained shall

affect the liability of the party who may receive the value of any land so taken by Government, without having a good title to the same.

IV. As soon as the land has been marked out, the Collector, or other officer appointed as aforesaid, shall cause the order in Council to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, with a citation, calling on all parties interested in the land to appear before him in person, or by authorized agents, on a certain day, not less than fifteen days after the date of citation, and to state the nature of their interests in the land required, and the amount and particulars of their claims to compensation for the same.

V. It shall be competent to the said Collector, or other Officer appointed as aforesaid, to admit any such claims that appear to him to be valid, and if he and all the parties interested in the land agree as to the compensation to be allowed to them respectively, to pass an award for the same.

VI. If the said Collector or Officer shall judge any of the claims preferred to be inadmissible, and the parties interested in the land or any of them shall nevertheless persist in such claims, or if the said Collector or Officer, admitting the interests claimed shall object to the compensation demanded for the same as excessive, the points in dispute shall be referred to the determination of arbitrators, to be appointed in the manner hereinafter provided.

VII. Two persons shall be chosen to act as arbitrators on the part of Government, by the Collector or other Officer duly appointed as aforesaid, and the party or parties claiming to be interested in the land taken shall be called upon by the said Collector or Officer to elect, within fifteen days two persons to act as arbitrators on his or their part. If there be several parties interested as aforesaid, and they cannot agree within the required period in the election of persons to act as arbitrators on their behalf, then and in that case each of them shall nominate one person whom he may desire to act on his behalf, and the said Collector or Officer shall choose by lot, out of the persons so nominated by the parties aforesaid, or by any of them, two person to act as arbitrators on behalf of the parties interested in the land. If only two persons shall be so nominated by

the parties interested in the land, they shall be the arbitrators on behalf of such parties, whether the whole of the parties interested as aforesaid may or may not have been concerned in their nomination. If only one person shall be so nominated, then only one of the persons selected to act as arbitrators on the part of Government, shall be employed on the duty. If the parties interested in the land shall refuse or neglect, or if, by reason of minority, lunacy or absence from the Presidency, they shall be unable, to make any nomination within the required period, then the said Collector or Officer shall and may select two impartial persons to arbitrate the matter between Government and the parties interested in the land.

VIII. Before the arbitrators proceed to arbitrate, they shall be required by the said Collector or Officer, to appoint an umpire for the decision of any points whereon they may differ in opinion, when the voices on each side shall be equal. If the arbitrators cannot agree in the selection of an umpire, the said Collector or Officer shall be authorized to choose some person to act as such.

IX. In cases wherein the arbitrators may differ in opinion, if the voices on each side shall be equal, the decision of the umpire on the point of difference shall be conclusive: in all other cases, the opinion of the majority of arbitrators shall determine the award.

X. The arbitrators shall hold their inquiry under the general superintendence of the Collector or other Officer appointed as aforesaid, who shall be competent to exercise towards them such powers and authority, for the purpose of securing their attendance and the due completion of their award, as the Courts of Judicature may legally exercise towards persons summoned as witnesses before them, for the purpose of compelling such witnesses to attend and give evidence. It shall further be competent to the Officer presiding, in the event of any unnecessary delay on the part of arbitrators, in determining any question referred to them, to call upon them to make their award within a specified time, and in default thereof, to refer such question to the umpire for his decision.

XI. The said Collector or other Officer appointed as aforesaid shall, on the application of the arbitrators, summon any

witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process. He shall also cause the proper forms of affirmation to be executed by any witnesses whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to administer or cause the execution of such affirmation, if the witnesses cannot with convenience attend before him. Any witness who shall refuse or omit to appear when duly summoned by such Collector or Officer, or who shall appear but shall refuse to execute the affirmation to be administered as aforesaid, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before a court of justice. Any person giving intentionally and deliberately a false deposition, under a solemn affirmation in any case referred to arbitration as above, and upon a point material to the issue thereof, shall be held to be guilty of perjury and shall be liable to the penalties prescribed for that offence by law; and any person causing or procuring another person to commit the offence of perjury, as above described, shall be guilty of subornation of perjury and punishable according to law.

XII. It shall also be competent to the Collector, or other Officer appointed as aforesaid, to demand from the parties interested in the land so taken as aforesaid, the production of any accounts, title-deeds, or other documents which may be required by the arbitrators for the purposes of their inquiry, and in the event of such accounts, title-deeds or documents being withheld, and the fact of their existence being proved by information given upon solemn affirmation, to order the seizure of such accounts, title-deeds, and documents wherever they may have been deposited, in the manner prescribed by Section IX. Regulation IX. of 1822 of the Madras Code, and to exercise for that purpose the powers thereby vested in Collectors.

XIII. The arbitrators shall take into consideration the statements of the parties interested in the said land, and the objections of the Collector or other Officer aforesaid on behalf of Government, and after examining the evidence offered on both sides, and making any further inquiry that may appear to them necessary, shall pass their award allowing or disallowing the in-

terests claimed, and determining the total amount of compensation to be given for the interests allowed, the mode in which it is to be given, and if to be given to more than one party, the shares of the total compensation which each party shall be entitled to receive.

XIV. The award of the arbitrators, or of the umpire, if he shall be called upon to make an award, shall be binding and conclusive both upon the Government and the parties interested in the land, as respects the gross amount of the compensation to be paid by Government, unless the award shall be set aside by the Civil Court of the zillah upon a charge of corruption against the arbitrators or the u .pire, as the case may be, brought by either party, and proved after due investigation, to the satisfaction of such Court; in which case the matter shall be referred for the determination of a second set of arbitrators, to be chosen in the same manner as the first, and their decision, whatever it may be, shall be final. No petition to set aside an award made under this Act shall be received by the Civil Court of the zillah, unless it be presented within thirty days from the date of the award complained of; and the said petition shall be presented on stampt paper of the value used for miscellaneous petitions, and shall be accompanied with a copy of the award objected to. The award of the arbitrators or umpire shall also be binding as respects the shares to be paid to the several parties interested in the land, unless upon a suit instituted within thirty days from the date of the award, in a competent Court, by any of the parties concerned, to alter the apportionment made by such award, an injunction shall be issued to suspend the payment until a decree is passed in the case.

XV. If any question arises as to the previous possession of or title to any land taken by Government under this Act, or if the parties or any of them interested in the land are minors, lunatics, or absent as aforesaid, and are not represented by their guardian, committee, attorney, or other person authorized in that behalf, or if there exist other grounds which, in the judgment of the arbitrators, render it improper to make immediate payment of the compensation awarded by them, or of any part thereof, to any of the parties interested in such land, the said arbitrators shall certify the same to the said Collector or Officer, under

whose directions they may act, and in such case, or if for any such reason, or any such ground as aforesaid the said Collector or other Officer shall deem immediate payment improper, then the amount of compensation payable shall be held in deposit by Government, until the parties interested in the said land or some of them shall obtain an order of a competent Court for the payment of the same and interest (if any) to them. All sums held in deposit as aforesaid exceeding in amount the sum of five hundred Rupees, shall be invested in Government Securities.

XVI. On the close of the inquiry, the arbitrators or umpire shall deliver to the Collector or other Officer appointed as aforesaid, a full and complete report and award upon the questions submitted to their arbitration, under their respective signatures, specifying the amount of compensation to be granted, and (except where under Section XV. it may appear proper to suspend payment,) the parties to whom it is to be made, and the proportions to be paid to each respectively, with a solemn declaration subscribed thereto, that the award so given, is, to the best of their judgment, true and impartial, and according to the evidence adduced before them, and they shall at the same time deposit with the said Collector or Officer the whole of their proceedings.

XVII. All suits and proceedings instituted against Government to obtain compensation for land taken as aforesaid, other than such petitions to set aside awards as aforesaid, shall be dismissed with costs, but nothing herein contained shall affect the rights of any party to recover the value of any land taken by Government from any person who may have received the same without having any title thereto.

XVIII. In the case of land declared by a Minute of the Governor in Council to be needed for a public purpose being acquired by the Government by bargain with and purchase from the parties apparently interested therein, the Collector or Officer appointed by Government to receive possession of the same, shall cause proclamation to be made in the manner prescribed in the fourth Section of this Act, of the transfer of the land to Government, by the said parties, and requiring all other persons who may claim any right, title or interest in such land, to prefer their claims within one calendar month after such proclamation made; and any claims that may be preferred shall be dealt with

under Sction V. or under Section VI. and the following Sections of this Act. Provided always, that if no claim shall be made within one calendar month after such proclamation as aforesaid, the said land shall vest absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts, interests, mortgages, liens or incumbrances whatsoever of and in the said land so purchased; and any suit to recover the land so purchased by Government, or to obtain from Government compensation for the loss thereof, which may be preferred in any Court of Judicature, shall be dismissed with costs. But nothing herein contained shall affect the liability of the party who may receive the value of any land purchased by Government without having a good title to the same.

XIX. In cases referred to arbitration, under the provisions of this Act, any necessary expense which may attend the inquiry of the arbitration whether for the diet of witnesses or otherwise shall be paid by Government.

XX. The provisions of Act XLII. of 1850, shall be applicable and in force within the Madras Presidency; and the said Act shall be construed as if instead of the words and figures "Regulation I. of 1824 of the Bengal Code" or "the said Regulation" therein mentioned, the number and title of this Act had been therein inserted.

XXI. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, (that is to say,)

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word "land" shall extend to tenements and hereditaments of any tenure, and all houses, buildings, walls, or appurtenances thereupon as well as land.

The expression "party or parties interested in the land" shall be understood to mean all parties interested in the land either for life or for years, or in remainder, reversion, or succession, and all trustees, *cestui que* trusts, mortgagees, incumbrancers,

leaseholders or tenants, not being tenants by the month or at will of such land.

BOMBAY.—DEPUTY COLLECTORS.

ACT No. XXI. OF 1852.

[*Passed on the 16th April, 1852.*

1, 2. *Authorizes appointment of Uncovenanted Deputy Collectors; and* (2) *prescribes a declaration to be made by them.*

3, 4, 5. *Prescribes the powers which may be given to them and* (4) *extends R.* 16, 1827, *s.* 11 *to them; and* (5) *in what way their misconduct is to be dealt with and how they may be dismissed.*

An Act to authorize the employment of Uncovenanted Deputy Collectors in the Presidency of Bombay.

Whereas the exigencies of the public service require the employment of Uncovenanted Deputy Collectors in the Revenue Department within the Presidency of Bombay, it is hereby enacted as follows:

I. The Governor of Bombay in Council may appoint in any Zillah or District within the said Presidency, one or more Uncovenanted Deputy Collectors, with the powers hereinafter mentioned.

II. Every person appointed a Deputy Collector under this Act shall, before entering upon the duties of his office, make and subscribe a solemn declaration to the same effect as the oath prescribed in Appendix A. annexed to Reglation XVI. of 1827 of the Bombay Code, the words "the East India Company" being inserted in such declaration, instead of the words "the United Company of Merchants of England trading to the East Indies" and the words, "United Company" in the said oath contained, and such declaration shall be made and subscribed either before Her Majesty' Supreme Court of Judicature for Bombay, the Court of Sudder Dewanny Adawlut of Bombay, any Judge on circuit in the Zillah, in which such Deputy Collector may be appointed, the Judge, Collector or Magistrate of that Zillah, or such other person as may be deputed or authorized by any order of the said Governor in Council to take or receive such declaration.

III. Deputy Collectors appointed under this Act shall dis-

charge such of the duties and exercise such of the powers of the Covenanted Assistants in the Revenue Department, as shall be prescribed from time to time in each case by the Governor of Bombay in Council, and shall be subject to the same control and authority in all respects as such assistants respectively.

IV. Section XI. of Regulation XVI. of 1827, of the Bombay Code, shall be applicable to Deputy Collectors appointed under this Act, who shall hold their Offices subject to the provisions of the said section.

V. No Deputy Collector appointed under this Act shall be dismissed from Office without the sanction of the Governor of Bombay in Council. Whenever there is reason to believe that a Deputy Collector is disqualified, by neglect, incapacity, corruption or other misbehaviour, for continuance in office, a report shall be made by his superior in the Revenue Department for the consideration and orders of the Governor of Bombay in Council, who shall be competent to suspend such Deputy Collector, and order a further enquiry into his conduct, or direct his immediate dismissal, as may appear just and proper.

BENGAL.—PUTNEE TALOOK SALES.

ACT No. XXII. OF 1852.

[*Passed on the 30th April,* 1852.

Gives validity to orders and sales in summary suit by specified officers not having jurisdiction.

To avoid doubts as to the validity of certain decisions in summary suits for arrears of rent, and of certain sales of Putnee Talooks and other saleable tenures.

Whereas by Regulation VIII. of 1831 of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zillah or City Courts to the Collectors of the several Districts; and whereas, by Regulation VII. of 1832 of the Bengal Code, the superintendence of the sales of Putnee Talooks and other saleable tenures of the class specified in Clause 1, Section VIII. Regulation VIII. of 1819 of the same Code, was transferred to the Collector or Deputy Collector of Land Revenue,

or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided; and whereas by Act VIII. of 1835 the conduct of sales of Talooks or other saleable tenures in execution of summary decrees for rent, in conformity with Regulation VII. of 1799 of the same Code, was transferred to the Collectors of Land Revenue; and whereas doubts have been entertained in some instances as to the District within which such summary suits or claims should have been decided, and such sales made, by reason that the jurisdiction of the several Zillah and City Courts is not conterminous with the jurisdiction of the several Collectors of Land Revenue. It is enacted as follows:

I. No order or decision already made in any such summary suit, and no such sale as aforesaid, already made, which has not been questioned before a Court of competent judicature before the passing of this Act, on the ground of having been decided or made by a Collector of Land Revenue, his deputy or duly authorized assistant, having no jurisdiction therein, shall be liable to be annulled or disputed on that ground.

MADRAS AND BOMBAY.—FINES.

ACT No. XXIII. OF 1852.

[*Passed on the 7th May*, 1852.

1, 2, 3. *Abolishes the power of Courts of Justice to mitigate fines, &c and* (2) *gives such power to the Madras Government: and* (3) *to the Bombay Government.*

To authorize and empower the Governors in Council of the respective Presidencies of Madras and Bombay to mitigate or discharge fines, amerciaments, &c., imposed by the Supreme Courts, or any other Courts of Justice at Madras and Bombay respectively.

Whereas the Supreme Court of Judicature at Madras now hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures and sums of money ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Madras, upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever. And whereas

the Supreme Court of Judicature at Bombay hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures, and sums of money ordered, charged, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanors, defaults, contempts, neglects or forfeitures whatsoever: And whereas it is expedient that such respective powers and authorities should be exercised by the respective Governors in Council of the Presidencies of Madras and Bombay respectively, It is hereby enacted as follows:

I. The powers and authorities respectively exercised by the said Supreme Courts at Madras and Bombay, or by any other Courts of Justice at Madras and Bombay respectively, to mitigate, and discharge fines, amerciaments, forfeitures and sums of money ordered, charged, adjudged, set, imposed or awarded by such Supreme Courts or by any other Court of Justice at Madras and Bombay aforesaid upon, or against, any person or persons whomsoever, for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever, shall henceforth respectively cease and determine.

II. It shall be lawful for the Governor in Council of the Presidency of Fort St. George at Madras to mitigate, or discharge all fines, amerciaments, ferfeitures, and sums of money which may have been or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Fort St. George at Madras aforesaid, or by any other Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set, impose, or award fines, amerciaments, ransoms, forfeitures, penalties, or sums of money, for or by reason of any offences, misdemeanors, defaults, contempts, neglects or forfeitures whatsoever, as the Court of Exchequer in England, or the Chancellor or Barons thereof, may or can lawfully do in England. And the said Governor in Council may, by any order, cause a share or proportion of any fine imposed, on any person or persons for any delinquency or misdemeanor prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.

III. It shall be lawful for the Governor in Council of the Presidency of Bombay to mitigate or discharge all fines, amerciaments, forfeitures, and sums of money, which may have been or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay, or by any other Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set, impose, or award fines, amerciaments, ransoms, forteitures, penalties or sums of money for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever, as the Court of Exchequer in England or the Chancellor or Barons thereof, may or can lawfully do in England: And the said last mentioned Governor in Council may by any order, cause a share or proportion of any fine imposed on any person or persons for any delinquency, or misdemeanor prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.

CRIMINAL LAW.—CRIMPING.

ACT No. XXIV. OF 1852.

[*Passed on the 14th May*, 1852.

1. *Defines who shall be deemed a crimp and what shall be crimping.*

2. *Defines Emigration to be departure by land or water out of the territories of E. I. Co.*

3. *Further defines what shall be deemed crimping.*

4. *Crimp punishable with fine and imprisonment.*

5. *Persons, by intoxication and other specified fraudulent means, inducing emigration, to be punishable.*

6, 7, 8. *Hard labor may be awarded with imprisonment; and* (7) *shall be awarded in certain cases; and* (8) *prescribes additional punishment for several offences.*

9. *Extends the name "Magistrate" to Joint and Deputy exercising the power of Magistrate.*

For amending and explaining Act XIV. 1839, and for the better prevention of crimping.

For the amending and better understanding of Act XIV. 1839, and for the better prevention of the offence of crimping as hereinafter defined, It is declared and enacted as follows

I. Any person who by force or fraud, unlawfully detains in any place or decoys to any place any Native of India, with intent to force or prevail upon him to enter into any service, or contract for service to be performed out of the Territories under the Government of the East India Company into which he was not minded to enter, without such force or fraud, or who, by means of false imprisonment, intoxication, intimidation, force or fraud, causes any Native of India to enter into any such service or contract for service, or who attempts, by force or fraud or by any false promise, pretence or representation, to cause any Native of India to depart either by land or water from the Territories under the Government of the East India Company, is a crimp, and guilty of crimping, within the meaning of this Act.

II. The departure of any person out of the Territories under the Government of the East India Company, by land or water, is Emigration from the said Territories within the meaning of Act XIV. 1839, and of this Act.

III. After the passing of this Act no person shall be liable to the penalties of Act XIV. 1839, for making, in good faith any contract with any Native of India for labor to be performed in any Foreign Settlement on the mainland of India or for knowingly abetting or aiding any Native of India in emigrating from the said Territories to any such Foreign Settlement. Provided that if any person shall make any contract with any Native of India for service or labor to be performed by such Native out of the Territories under the Government of the East India Company, or cause any Native of India to depart from the Territories under the Government of the East India Company, or knowingly aid or abet such Native of India in emigrating from the said Territories to any such Foreign Settlement with intent that such Native shall afterwards depart from India, such person shall be deemed to be a crimp and guilty of crimping within the meaning of this Act, and proof of the subsequent departure of such Native from India, from any place out of the Territories under the Government of the East India Company within the period of six months from the time of the departure of such Native from the said Territories under the Government of the East India Company, shall be *primâ facie* evidence of such intent.

IV. Every crimp within the meaning of this Act, is liable to be imprisoned for a term not exceeding six calendar months, and to pay a fine not exceeding five hundred rupees.

V. Every person who shall, by means of intoxication, false imprisonment, or intimidation, or by means of any false promise, pretence or representation, force or decoy any Native of India out of the Territories under the Government of the East India Company, or fraudulently cause any such Native to depart from the said Territories shall be liable to be imprisoned for a term not exceeding three years.

VI. In every case in which under this Act imprisonment may be awarded for any offence it shall be lawful for the Court, who may award such imprisonment, to sentence the offender to be kept to hard labor during the whole or such period or periods of such imprisonment as to such Court shall seem meet.

VII. In every case in which an offender shall be liable to be imprisoned under Section II. Act XIV. of 1839, such offender shall be liable to be imprisoned or imprisoned and kept to hard labor for a term not exceeding three months for every Native contracted with, provided that such imprisonment shall not in any case exceed six months for any one offence.

VIII. In every case in which any person shall commit an offence under Section II. Act XIV. 1839, as explained and amended by this Act, after having been previously convicted, either before or after the passing of this Act, of an offence under that Section, such person shall be liable, upon conviction before a criminal Court of competent jurisdiction, to be imprisoned, or imprisoned and kept to hard labor for any period not exceeding one year, and in every indictment, information or other proceeding for such an offence committed after such previous conviction, it shall be sufficient, after describing the offence, to state that the offender was at a certain time and place convicted of an offence under Section II. Act XIV. 1839, without otherwise describing such previous offence or conviction, and a certificate of the previous conviction, purporting to be signed by the Officer having the custody of such previous conviction, or by the deputy or legally authorized Assistant of such Officer, shall, with proof of the identity of the person of the offender, be sufficient *primâ*

facie evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed such certificate.

IX. The term "Magistrate" in Act XIV. 1839 shall extend to Joint Magistrates and persons lawfully exercising the powers of a Magistrate.

BENGAL. JUDICIARY.—EXECUTION OF DECREES.

Repealed by X 7/61 except in regard to Execn of Privy Council decrees

ACT No. XXV. OF 1852.

[*Passed on the* 14*th May*, 1852.

1. 2. *Directs decrees made on appeal to be executed by Court below* (2) *on petition of party interested.*

3. *Gives an appeal against order for execution of decree made on appeal.*

4. *Reserves power to Sudder Court to order execution on orders of Privy Council.*

5, 6. *Extends Act* 25, 1837, *s.* 8, *and* (6) *confines Act to lower provinces.*

An Act for the execution of decrees made in appeal by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal.

Whereas it is expedient to amend the law relating to the execution of decrees made and passed in appeal by Her Majesty in Council, and by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal, It is hereby enacted as follows:

I. Every decree or order in appeal of Her Majesty in Council, or of any Court of Sudder Dewanny Adawlut, or of any Zillah or City Judge which shall be made after the passing of this Act, and also every such decree or order in appeal which has been made before the passing of this Act, and for the execution or enforcement whereof no petition has been presented, shall be enforced and executed by the Court which made the first decree or order appealed from, in the manner and according to the rules and laws applicable to the execution and enforcement of original decrees or orders made by such last mentioned Court.

II. Any party desirous of enforcing or obtaining execution of any such decree or order made in apppeal as foresaid, shall

present a petition for that purpuse to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed,

III. An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules and regulations as an appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

IV. Nothing herein contained shall be construed so as to prevent any Court of Sudder Dewanny Adawlut from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.

V. The provisions of Section VIII. Act XXV. 1837 of the Bengal Code shall extend to proceedings under this Act.

VI. This Act shall apply only to the Presidency of Fort William in Bengal.

BENGAL.--PROCEDURE OF COURT OF SUDDER AMEENS AND MOONSIFFS.

Repealed by X of 1861

ACT No. XXVI. OF 1852.

[*Passed on the* 14*th May*, 1852.

1. *Repeals R.* 23, 1814, *ss.* 19, 21, 22, 24, 27, 29, 35, 37 *and clauses* 1, 2, 3 *and* 5 *of s.* 25 *of same R. also s.* 73 *partially; R.* 5, 1831, *s.* 5 *cl.* 5 *and s.* 15 *cl.* 3 *also cl.* 3 *of s.* 8 *partially and s.* 6 *of same partially.*

2. *Applies the procedure of the Judges and P. S. Ameens in original suits to suits before S. Ameens and Moonsiffs.*

3. *Extends various specified regulations to Moonsiffs and S. Ameens. How they may obtain review of their own decrees.*

4. *Relates to suits in which Amlahs of S. Ameens and Moonsiffs are interested.*

5. *Saves operation of Stamp Laws.*

6. *Directs how execution of decrees may be applied for.*

7. *Directs how original suits referred to S. Ameen shall be tried, &c.*

8. *Act not to affect pending proceedings.*

9. *Extends power of Zillah Judge to order injunction, &c.*

10. *Confines Act to Lower Provinces.*

An Act to amend the mode of procedure in the Courts of the Sudder Ameens and Moonsiffs in the Presidency of Fort William in Bengal, and to extend the powers of Principal Sudder Ameens in appeals referred to them.

Whereas it is desirable that the mode of procedure in original suits in the Courts of the Sudder Ameens and Moonsiffs in the Presidency of Fort William in Bengal, should be assimilated to the mode of procedure in such suits in the Courts of the Judges and Principal Sudder Ameens, and whereas it is desirable to extend to Principal Sudder Ameens power to issue an injunction for the revision of an original decision according to Clause 2, Section II., Regulation IX. 1831, in regard to appeals referred to them, It is hereby enacted as follows:

I. Sections XIX., XXI., XXII., XXIV., XXVII., XXIX., XXXV. and XXXVII., Regulation XXIII. 1814, and Clauses 1, 2, 3, and 5, Section XXV. of the same Regulation, and Section LXXIII. of the same Regulation, so far as it extends Clauses 1, 2, 3, and 5, Section XXV. and Section XXXV. of the same Regulation to Sudder Ameens, Clause 5, Section V. and Clause 3, Section XV., Regulation V. 1831, and so much of Clause 3, Section VIII. of the said Regulation V. 1831, as relates to the Clauses and Sections of Regulation XXIII. 1814, hereinbefore mentioned, and Section VI. of the said Regulation V. 1831, except in so far as it rescinds Sections LVII., LVIII. and LIX. of the said Regulation XXIII. of 1814, are hereby repealed.

II. All laws and rules now in force relating to the mode of procedure in the trial and decision of original Civil Suits in the Courts of the Judges and Principal Sudder Ameens, shall also apply to and regulate the mode of procedure in the trial and decision of original Civil Suits in the Courts of the Sudder Ameens and Moonsiffs.

III. Sections XIII. and XXI. Regulation III. 1793, Sections VII. and XI., Regulation VII. 1795, Sections XVII. and XIX., Regulation II. 1803, Sections VIII. and IX. Regulation VII. 1832, as extended by Act XXI. 1850, shall be applicable to suits and cases in the Courts of the Moonsiffs, Clause 2, Section IV. Regulation XXVI. 1814, relating to reviews of judgment shall also be applicable to the Courts of Sudder Ameens and Moon-

siffs. Provided always, that if a Sudder Ameen or Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge, who is hereby authorized to permit such review under the same rules as are prescribed by the existing Regulations with respect to similar applications to the Court of Sudder Dewanny Adawlût.

IV. Every Sudder Ameen and Moonsiff shall have power and authority to try suits in which any Vakeel or Officer of his Court is a party, anything in Section VIII, Act VI. 1843, and in Clause 2, Section XV., Regulation V. 1831 to the contrary notwithstanding; and suits under Clause 1, Section XXX. Regulation II. 1819 may be referred to them by the Zillah Judge for trial and decision under the restrictions as to local jurisdiction and value of property mentioned in Clauses 1, 2, and 3, Section V., and Clause 2, Section XV., Regulation V. 1831.

V. Nothing in this Act contained shall be construed so as to repeal or otherwise affect the rules regarding the dispensing with the use of stamp paper on certain documents in the Courts of the Moonsiffs contained in Clause 2, Section IX., Regulation V. 1831, or the rules for procuring the attendance of witnesses in the Courts of the Moonsiffs contained in Section II., Act XVII. 1845.

VI. Applicants for execution of decrees may file with their petitions an authenticated copy of the decree of which execution is sought to be taken out, and in such case it shall not be necessary to compare the petition with the decree contained in the original record of the suit, anything in Clause 7, Section XV. Regulation XXVI. 1814 to the contrary notwithstanding.

VII. Original suits referred to a Sudder Ameen under Clause 2, Section XV., Regulation V. 1831, shall be tried and determined in conformity with the Provisions of Regulation XXIII. 1814, and of this Act, anything in Clause 3, Section XV., Regulation V. 1831, to the contrary notwithstanding.

VIII. Nothing in this Act contained shall be construed to affect the mode of procedure in any case pending in the Courts of the Sudder Ameens and Moonsiffs at the time of the passing of this Act, but the mode of procedure in all such cases shall be governed by the law in force previous to the passing of this Act.

IX. The powers given to Zillah and City Judges, by Act VII. 1838, to issue an injunction for the revision of an original decision which has been found erroneous or insufficient according to Clause 2, Section II., Regulation IX. 1831, are extended to Principal Sudder Ameens in regard to all appeals referred to them.

X. This Act shall be deemed to extend only to the Bengal Presidency, and to refer only to the Regulations of the Bengal Code.

BOMBAY.—POLICE.

ACT NO. XXVII. OF 1852.

[*Passed on the 2nd July*, 1852.

1, 2, 3, *Empowers G. in C. to authorize Magistrate to authorize Heads of Villages to try the offences of* (2) *theft of* 5 *rupees, assault and abuse or disobedience of their own orders; and* (3) *to inflict specified punishment.*

An Act to confer certain powers on Patels and other heads of Villages in the Bombay Presidency.

Whereas it is expedient to confer certain powers on Patels and other heads of Villages in the Bombay Presidency, It is hereby enacted as follows:

I. From and after the passing of this Act, it shall be lawful for the Governor in Council of Bombay, by an order in writing, to authorize any Magistrate of a Zillah to issue a Commission to any person exercising the office of Patel, or charged with the administration of criminal justice within the limits of any Town, Village or Peth, in the said Presidency, empowering him to try any person charged with any of the offences hereinafter mentioned, and the said Magistrate shall forthwith issue the said Commission in accordance with such order.

II. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission as aforesaid, to try any person charged with the offence of theft, assault, or abuse, when the value of the property stolen, or the amount of damages alleged to have been sustained, does not exceed rupees five, and also to try any person charged with the offence of resisting or refusing to obey any order of such Patel or other Officer as aforesaid. Provided always, that every charge

of any such offence shall be preferred to such Patel or other Officer as aforesaid within eight days after the Commission of such offence.

III. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission as aforesaid, to order any person, convicted by him of any such offence as aforesaid, to pay a fine not exceeding five rupees, or to be placed in the stocks for any period not exceeding six hours, or to be detained in the chowkey of the Town, Village, or Peth, for any period not exceeding forty-eight hours.

IV. Such conviction shall be a bar to any other proceedings for the same offence.

BOMBAY.--POLICE.

ACT No. XXVIII. OF 1852.

[*Passed on the 2nd July*, 1852

1. *Repeals part of R.* 13, 1827 *s.* 27 *cl.* 1 *and part of s.* 27 *cl.* 4 *of same R.*

2. *Vests the superintendence of the Police in the G. in C. who may appoint such persons as he thinks fit.*

An Act to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency.

Whereas it is expedient to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency, It is hereby enacted as follows:

I. So much of Clause 1., Section XXVII. of Regulation XIII. of 1827, of the Bombay Code, as enacts that the Court of Sudder Foujdaree Adawlut shall superintend the administration of Police, and so much of Clause 4, Section XXVII. of the same Regulation, as enacts that the Court of Sudder Foujdaree Adawlut shall furnish information to Government of the state of the Police in each Zillah, are hereby repealed.

II. From and after the passing of this Act, the superintendence of the Police in the said Presidency shall be vested in, and exercised by the Governor in Council of Bombay, and for the better superintendence thereof, it shall be lawful for the said Governor in Council to appoint such persons as he shall think fit to control and superintend the said Police, subject to the

Orders of the said Governor in Council, and to vest in such persons such power and authority for the purposes aforesaid, as to the said Governor in Council may seem proper.

BOMBAY.—CIRCUITS OF COMMISSIONERS.

ACT NO. XXIX. OF 1852.

[*Passed on the 2nd July*, 1852.

1. *Repeals R.* 3, 1830, *s.* 9; *R.* 8, 1833, *s s.* 2, 3, 4, 5.

2. 3. *Empowers G. in. C. to issue commission to judges to exercise power of circuit judges, &c.*

An act to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.

Whereas it is expedient to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay, It is hereby enacted as follows:

I. Section IX. of Regulation III. of 1830, and Sections II. III. IV. and V. of Regulation VIII. of 1833, of the Bombay Code are hereby repealed.

II. It shall be lawful for the Governor in Council of Bombay to issue a Commission in writing to any one of the Judges of the Court of Sudder Foujdaree Adawlut, thereby directing and empowering him to exercise and perform all or any of the powers and duties of a Judge on Circuit, or of a visiting or Judicial Commissioner, under the provisions of Chapter IV. Regulation XIII. of 1827, Sections X. XI. and XII. Regulation III. of 1830, Section V. Regulation VIII. of 1831, and Sections VI. and VII. Regulation VIII. of 1833, of the Bombay Code, and, all or any of the powers or duties now vested in, and exercised by the Court of Sudder Foujdaree Adawlut.

III. It shall be lawful for the said Governor in Council of Bombay in and by the said Commission, or by order in writing, to direct any Commissioner appointed as aforesaid to proceed on Circuit to any and such Zillahs in the said Presidency as shall be in the said Commission or order named, and to prescribe the period of his return to the Court of Sudder Foujdaree Adawlut.

NATURALIZATION OF ALIENS.

ACT NO. XXX. OF 1852.

[*Passed on the 16th July,* 1852

1. *Authorizes any resident to petition for Naturalization.*

2, 3, 4, 5. *Describes what the petition must contain; and* (3) *empowers the Government to do what pleases it on such petition; and* (4) *to grant such privileges as it pleases by certificate,* (5) *which certificate shall be filed.*

6. *Certificate may be annulled if obtained on false statement.*

7. *Authorizes fees to be charged.*

8, 9. *Certificate to operate to give the alien the privileges of a natural subject born in India; but* (9) *not so as to deprive the E. I. Co.'s Courts of their jurisdiction over him.*

10, 11. *Prescribes an oath; and* (11) *certificate of its being taken to be filed.*

12. *Interpretation clause.*

13. *Permits affirmation instead of oath.*

Schedule, Oath.

An Act for the Naturalization of Aliens.

Whereas it is expedient to provide for the Naturalization of Aliens resident in the Territories under the Government of the East India Company, It is enacted as follows:

I. Any person whilst actually residing in any part of the territories under the Government of the East India Company may present a memorial to Government, praying that the privileges of Naturalization may be conferred upon him.

II. Such memorial shall state to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said territories, that he is settled in the said territories or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompained by an affidavit sworn by him, verifying the truth of the statements contained therein.

III. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper in adition to

the before-mentioned affidavit of the memorialist to prove the truth of the statements contained in such memorial.

IV. The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of Naturalization under this Act, except such rights, privileges or capacities, if any, as may be specially excepted in such certificate.

V. The certificate shall be delivered to the memorialist; and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any Affidavit, which may accompany such memorial or be produced in support thereof, shall be filed by the Secretary to the Government, or such other officer as the Government may direct; and such Secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government.

VI. If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order; and from and after such order all the rights, privileges and capacities derived through such certificate shall cease to exist.

VII. Such fees shall be payable in respect of the proceedings hereby authorized as shall be fixed by the Government.

VIII. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall within the said territories under the Government of the East India Company be deemed a natural born subject of Her Majesty, as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges and capacities of a subject of Her Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.

IX. Nothing in this Act contained shall be construed so as to deprive the Courts of the East India Company of jurisdiction over any such naturalized person, or to give to the Courts of

Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction.

X. Within sixty days from the day of the date of such certificate the memorialist named in such certificate shall take and subscribe the oath contained in the Schedule annexed to this Act.

XI. Such oath, as well as any other oath or affidavit required by this Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the Schedule to this Act annexed shall grant to the memorialist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial.

XII. The word "Government" in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the executive Government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine.

XIII. In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and the word "oath" or affidavit wherever used in this Act shall include such affirmation.

SCHEDULE.

Oath.

I, A. B., of *(here state the description of the party)* do swear *(or being one of the persons allowed by law to affirm in civil*

cases, do affirm,) that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories as dependent thereon, and that I will be true and faithful to the East India Company.

(Signed) A. B.

BENGAL.—DAROGAHS.

ACT No. XXXI. OF 1852.

[*Passed on the* 13*th August*, 1852.

Repeals R. 20, 1817. *s.* 16, *cl.* 17.

An Act to repeal Clause 17, Section XVI, Regulation XX. 1817 of the Bengal Code.

Whereas it is not expedient that Darogahs or other Police Officers should be entitled to a commission on the value of property stolen or plundered which they may recover, It is hereby enacted as follows:

I. Clause 17, Section XVI; Regulation XX. 1817 of the Bengal Code is repealed.

PROSECUTION OF PUBLIC OFFICERS.

Repealed by XVII of 62

ACT No. XXXII. OF 1852.

[*Passed on the* 20*th August*, 1852.

1. *Local Government or head of department may prosecute ministerial and police officers on suspicion of corruption, extortion, embezzlement, or other malversation, &c. and prosecution not to be barred, by officer having ceased to be in employment of Government.*

2, 3. *Collector, Magistrate, &c. not to prosecute without sanction of Board, &c. and* (3) *person prosecuting not to act as judge.*

4. *Saves operation of Madras R.* 9, 1822, *and* 7, 1828, *and Act* 36, 1837.

An Act to facilitate the prosecution of certain Ministerial and Police Officers for certain Criminal Acts.

Whereas it is expedient to enable the local Governments and the head officers of departments or offices under Government, to prosecute their subordinate ministerial or police officers for acts of corruption, extortion, embezzlement or other malversation, whether or not any charge be preferred by an aggrieved private party in respect of such acts, It is enacted as follows:

I. Whenever the local Government, or the head officer of a department or office under Government, shall be of opinion that there are good grounds for making a public enquiry into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of office, by any ministerial or police officer, subject to the jurisdiction of the Courts of the East India Company, and subordinate to such Government, or employed in such department or office, as the case may be, it shall be lawful for such Government, or any such head officer as aforesaid, to prosecute such officer on the part of Government in a Criminal Court, or to nominate some person to conduct such prosecution; and it shall also be lawful for such Government, or head officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a Criminal Court of any such charge, as aforesaid, which may be brought by an aggrieved private party against any such ministerial or police officer, and such prosecutions as aforesaid shall not be barred, or affected, by reason of the party prosecuted having ceased to be in the service of Government at the time at which the charge may be brought against him.

II. Provided always that no Collector, Magistrate, nor head of an office in the Salt, Abkaree, or Customs Department under the grade of Commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the Court, Board, or officer to whom he is immediately subordinate, to institute the same.

III. No Collector, Magistrate, Judge, or other officer, who may prosecute any officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such officer connected with such prosecution, nor any of his deputies, assistants, or subordinate officers, shall act as judge in any such prosecution.

IV. Nothing herein contained shall be construed so as to repeal or otherwise affect Regulations IX. 1822 and VII. 1828, of the Madras Code, and Act XXXVI. 1837, and the said Regulations and Acts shall remain in full force with respect to the malversations and offences in the Revenue Department to which they are applicable.

Repealed by X of 1861 except as regards the enforcement of judgments of Royal Charter Cts & enforcement of decrees of Military Cts of Requests.

JUDICIAL.

ACT NO. XXXIII. OF 1852.

[*Passed on the 27th August*, 1852.

1. *Defines scope of the Act, viz. to provide means of obtaining satisfaction of judgment of any Court, of which satisfaction cannot be obtained within its jurisdiction.*

2, 3, 4. *Court on application, to grant copy of its judgment and of order for execution if any, and a certificate of its being unsatisfied, copy to be signed and sealed; and* (3) *nature and name of Court to appear, and* (4) *if it be the judgment of inferior Court, to be authenticated by the principal Civil Court of the district.*

5, 6, 7. *Copies, &c, to be transmitted to the Court of the district in which execution is required and to be filed therein; and* (6) *when filed, shall for purpose of being executed, have the same force as judgment of the Court itself; and* (7) *shall be enforced according to the practice of the Court as respects its own judgments*

8. *Provisions of this Act to extend to decrees of Military Courts of Requests, but execution not to be granted against the person of Soldier; Decree of Military Court of Requests how to be authenticated.*

9. *Petition for execution on decree of Moonsiff or Military Court of Requests to be on plain paper.*

10. *Same appeal against execution under this Act, as in other cases.*

11. *Interpretation of words "judgment," "party," &c.*

An Act to facilitate the enforcement of Judgments in places beyond the jurisdiction of the Courts pronouncing the same.

I. Every party, who shall have obtained a judgment in any Court of Her Majesty, or of the East India Company, in any part of the territories under the Government of the East India Company, or in any Court established by the authority of the Governor General of India in Council in the territory of any foreign Prince or State, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such Court, may enforce or obtain execution of the same in any part of the said territories under the Government of the East India Company in manner following:

II. The party may apply to the Court, which shall have pronounced such judgment, for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said court, also for a copy of any order for execution of such judgment that may have been passed, and, if necessary, for a transalation of the

said judgment and order for execution into the English language. The court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate, and translation if necessary, to be furnished, and the same shall be signed by the judge, or one of the judges of the court, and sealed with the seal of the court.

III. If such court shall be the principal civil court of original jurisdiction in the district, the judge shall describe himself accordingly in the certificate, and shall also name the court and the district.

IV. If the court shall not be the principal civil court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the judge, and the translation, if any, shall, without delay, be transmitted to the principal civil court of original jurisdiction in the district, and the judge, or one of the judges of such court shall issue a certificate under his hand and the seal of the court, verifying the signature of the judge of the court in which the judgment shall have been given to the documents above-mentioned; and in such certificate the judge signing the same shall describe himself as the judge, or one of the judges of the principal civil court of the district, and shall also name the court and the district.

V. All copies, translations, and certificates, which may be furnished by, or transmitted to the principal civil court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such court without delay to the principal civil court of original jurisdiction in the district in which the party may wish to have the judgment enforced or executed, and if such last-mentioned court be the Supreme Court of judicature of either of the Presidencies, to the Prothonotary of the Court; and such court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction of any court, or of the signature of any judge, unless the court, to which such documents shall be transmitted, shall, under any peculiar circumstances to be specified in an order, require the same.

VI. The copy of any judgment, or of any order for execution, when filed in the court to which it shall be transmitted for

the propose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a judgment or order for execution made by such court, and may be enforced or executed by such court, or any court subordinate thereto, to which it may entrust the enforcement or execution thereof.

VII. When application shall be made to any of the said courts to enforce, or execute the judgment of any other court as aforesaid, the court to which the application shall be made, or referred, shall proceed to enforce, or execute the same, according to its own rules and mode of procedure in like cases; and the last-mentioned court shall take cognizance of, and punish, all wrongful acts or irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or obstructing the enforcement or execution of any such judgment, shall be puishable by such last-mentioned court, in the same manner as if the said judgment had been pronounced by such court.

VIII. The decrees, of which execution is to be general, of any Military Courts of Requests holden within the said territories under the Government of the East India Company, or mentioned in Section XVII. Act No. XI. 1841, may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a Military Court of Requests, the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the court, shall be necessary, unless the court to which the same may be presented shall think fit, under any peculiar circumstances to be specified in an order, to require the same.

IX. A petition for execution under this Act of any judgment of a moonsiff's court, or of any decree of a Military Court of Requests, may be written on plain paper.

X. An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations, as if the judgment had been originally given by the court making such order.

XI. In this Act the word "judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.

STRAITS SETTLEMENTS.—GAMBLING.

ACT No. XXXIV. OF 1852.

[*Passed on the* 10*th September*, 1852.

1. *Penalty on conviction before Quarter Sessions; viz imprisonment with or without hard labour for six months or less, or fine* 500 *dollars, and in default of payment imprisonment, &c. Persons liable, viz. the keeper of common gaming-house or room, &c used for same purpose, and persons conducting business thereof, as banker, shroff, croupier, or otherwise, &c.*

2 *Defines what shall be sufficient proof of house, &c. being common gaming-house, viz proof of user, &c. of house, &c. for playing any unlawful game and that a bank is kept, or that chances, &c. are not equally favourable for all players, &c.*

3 *Penalty on persons found in common gaming-house, playing, &c. or found gaming, &c viz. imprisonment* 3 *months or less, or fine* 200 *dollars, &c. and in default of payment, imprisonment, &c.*

4, 5. *Justice, on information on oath, of suspected common gaming-house may issue search warrant, with specified powers to officers; and* (5) *Peace officer on view of offence, may exercise specified powers without warrant, &c.*

6, 7. *Cards and other instruments of gaming found in suspected house, to be prima facie proof against the house and persons found therein; and* (7) *on conviction, instruments of gaming to be destroyed, &c.*

8. *Officer seeing persons in act of gaming in any common gaming-house, street, &c, may arrest them and seize the instruments of gaming, &c.*

9. *Proof of playing for money or stakes not necessary to convict of gaming, &c.*

10. *Approvers under this Act exempt from prosecution.*

11. *Empowers J. P. to issue warrant against persons, on information laid, &c.*

12. *Act not to apply to games of mere skill played at places of public resort, &c.*

13. *Conviction not to be quashed, &c. for want of form, nor removed by Certiorari, &c.*

14. *One fourth of fine may be given to informer, the rest shall be applied to municipal purposes.*

An Act for the prevention of Gambling in the Settlement of Prince of Wales' Island, Singapore and Malacca.

Whereas the vice of gambling has much increased, and many gaming-houses have been established within the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca, for suppression of which the laws now in force are inadequate, It is enacted as follows:

I. Every person who, within the Settlement of Prince of Wales' Island, Singapore and Malacca, shall keep a common gaming-house, or any room or other place used for the purposes of a common gaming-house, or who shall have the care, or management thereof, or shall in any manner conduct the business of any such common gaming-house, either as banker, shroff, croupier or otherwise, shall, on conviction before the Court of Quarter Session of the said Settlement, be punishable by imprisonment, with or without hard labor for any term not exceeding six calendar months, or, in the discretion of the Court, to a fine not exceeding Five Hundred Dollars, and in default of payment of such fine, where a fine shall be imposed, the offender may be imprisoned by the said Court, with or without hard labor, either in the house of Correction or Her Majesty's Jail, for any period not exceeding six calendar months.

II. In default of other evidence proving any house, room, or place to be used as a common gaming-house, it shall be enough, in support of the allegation in any charge that any house, room, or place is a common gaming-house, to prove that such house, room, or place is kept or used for playing therein at cards, dice, poh, or any unlawful game, and that a bank is kept there by any one or more of the players exclusively of the others, or that the chances of any game played therein are not alike favorable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet; and every such house, room, or place shall be deemed a common gaming-house.

III. Every person who shall be found in any such common gaming-house playing or gaming with cards, dice, counters, poh, money, or other instruments of gaming, or who shall be found there, present for the purpose of gaming, or who shall be found gaming with cards, dice, counters, poh, money, or other instruments of gaming in any public street, place, or thoroughfare within the said Settlement, whether playing for any money,

wager, stake or otherwise, shall be punishable, on conviction before the Court of Quarter Session of the said Settlement, by imprisonment for any term not exceeding three calendar months, or, in the discretion of the said Court, by fine not exceeding Two Hundred Dollars, and in default of payment of such fine may be imprisoned by the said Court, with or without hard labor, either in the House of Correction or in Her Majesty's Jail, for any period not exceeding three calendar months; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

IV. Any Justice of the Peace of the said Settlement, upon information laid before him on oath, that there is reason to suspect any house, room, or place within the said Settlement to be used as a common gaming-house, may, by his warrant, give authority to any Peace Officer of the said Settlement to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all moneys and securities for money found therein, and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and to search also the persons of those whom he so takes into custody, and to seize and take possession of all cards, dice, pohs, counters and other instruments of gaming, which he shall find upon such search.

V. If any Peace Officer shall see any persons engaged in playing at cards, dice, poh, or other game, in any common gaming-house, it shall be lawful for such Peace Officer and his Assistants, without a warrant, to enter such gaming-house, and to apprehend all persons whom he shall find therein in the act or for the purpose of gaming, and to seize and take possession of all money and instruments of gaming found therein, or upon the persons of those so taken into custody; Provided that neither such Peace Officer nor any of his Assistants shall use force or violence, for the purpose of gaining admittance into such gaming-house.

VI. When any cards, dice, pohs, gaming-table, or cloth, board, or other instruments of gaming are found in any house, room, or place, of which information has been given on oath to a Justice of the Peace that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Peace Officer, or any of his Assistants.

VII. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein, shall be destroyed by order of the Court of Quarter Session, which may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited, or in its discretion may order any part thereof to be returned to the parties appearing to have been severally thereunto entitled.

VIII. Any Officer of Police may arrest, without warrant, all persons whom he may see in the act of gaming in any common gaming-house, or in any public street, place, or thoroughfare in the said Settlement, and seize all cards, dice, pohs, counters and instruments of gaming which he finds in their possession, and such cards, dice, pohs, counters, and instruments shall, on conviction of any of the parties, be forfeited.

IX. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

X; Any person, who shall have been concerned in any unlawful gaming, and who shall be examined as a witness before the said Court of Quarter Session on the trial of any person or persons for a breach of any of the provisions of this Act, and who upon such examination shall make true and faithful discovery, to the best of his or her knowledge, of all things as to

which he or she shall be so examined, and who shall thereupon receive from the said Court a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such unlawful gaming.

XI. Any Justice of the Peace of the said Settlement, upon information laid before him upon oath charging any person with being the keeper or manager of a common gaming-house, or of any room or place used for the purpose of a common gaming-house within the said Settlement, may issue his warrant directed to any Peace Officer to apprehend any such person, and to bring him before such Justice, or any other Justice of the Peace of the said Settlement to be dealt with according to law.

XII. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at licensed hotels, traverns, or eating houses, or places of public resort within the said Settlement.

XIII. Every person who shall, by any fraud, or unlawful device, or ill practice, in playing at or with cards, dice, or other game, or in bearing a part of the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime or exercise win from any other person, for himself, or any other or others, any sum of money, or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be punished accordingly.

XIV. No conviction, or other proceeding before the said Court of Quarter Session, under this Act, shall be quashed, reversed, or set aside, or adjudged void or insufficient for want of form, or be removed by *Certiorari* into Her Majesty's Court of Judicature of the said Settlement.

XV. The Court of Quarter Session shall, on conviction, have power to direct any portion, not exceeding one-fourth of any fine which shall be levied under the provisions of this Act, or any part of the moneys or proceeds of articles seized under the provisions of this Act, and ordered to be forfeited, to be paid to an informer; and the balance of such fines and moneys,

or the whole thereof, as the case may be, shall be applied to the use of the municipal fund of the station within the said Settlement at which the same shall have been taken.

AKYAB AND KYOUK PHYOO.—TAXATION.

ACT No. XXXV. OF 1852.

[*Passed on the* 1*st October*, 1852.

1. *Abolishes Poll Tax after* 1*st May*, 1853.

2, 3, 4. *Directs assessment of dwelling houses at specified rate, payable half yearly; and* (3) *in case of non-payment, leviable by distress and sale of goods, after demand; and* (4) *which demand shall be made in specified manner.*

5, 6. *Gives powers necessary for purpose of making the assessment; and* (6) *of numbering the premises.*

7. *Tenant paying the assessment, may deduct it from his rent.*

8 *Empowers Commissioner to exempt any building from assessment.*

9. *Validity of assessment not to be affected by formal defects, nor proceedings under Act to be quashed for want of form, &c. nor removable by Certiorari.*

10. *Gives appeal to Commissioner.*

11. *Defines boundaries of Akyab and Kyouk Phyoo.*

An Act for the abolition of the Poll Tax within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, and for levying a tax on lands covered by dwelling-houses within those towns.

Whereas it is expedient to abolish the poll tax now levied within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, and instead thereof, to levy a tax upon land covered by dwelling-houses within the said towns; It is enacted as follows:

I. After the first day of May 1853, the levy of a poll tax within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, shall cease.

II. After the said first day of May 1853, a principal assistant of the district, in which the same shall be situate, shall, from time to time, as he shall think fit, assess every dwelling-house within the aforesaid towns of Akyab and Kyouk Phyoo, respectively, at the rate of one pie and a half for every square cubit of land covered by such dwelling-house, the length of the cubit being estimated at eighteen inches: the amount of the said assessment shall be payable every year by the owner or

occupier of such dwelling-house, by equal half-yearly payments to be made in advance.

III. In case of non-payment of the amount assessed upon any dwelling-house within eight days after the same shall have been demanded as hereinafter mentioned, it shall be lawful for a principal assistant of the district in which such dwelling-house shall be situate, to cause such amount, or so much thereof as shall remain unpaid, together with a reasonable sum for costs, to be levied by distress and sale of the goods and chattels, to whomsoever belonging, found in such dwelling-house, or upon the goods or chattels of the owner thereof, wheresoever they may be found within the said towns, respectively; or the owner of the said dwelling-house may be sued for the amount: provided that no distress shall be made upon the goods and chattels of any person, other than the owner of the dwelling-house, for more than the arrears of assessment for the preceding year.

IV. The demand above referred to shall be made in manner following:—A written demand, signed by a principal assistant of the district, or some officer authorized by him in that behalf, identifying the dwelling-house, and specifying the amount claimed, the dimensions of the land covered by the dwelling-house, and the period in respect of which the amount is claimed, shall be delivered by the officer appointed to collect the same to the tenant, or occupier of the said dwelling-house, or in case the demand cannot be delivered to such tenant or occupier, or there be no tenant or occupier, the same may be fixed to some conspicuous part of the dwelling-house.

V. It shall be lawful for a principal assistant of the district in which any such dwelling-house shall be situate, or any officer who may be authorized so to do, by writing, signed by such principal assistant, at any reasonable time in the day time, to enter into such dwelling-house, or any land adjoining thereto, in order to measure, or ascertain the extent of land covered by such dwelling-house.

VI. It shall be lawful for a principal assistant of the district in which any dwelling-house liable to be assessed under this Act shall be situate to cause a number to be painted on, or affixed to such dwelling-house, for the better identifying the same; and if any person shall wilfully remove, obliterate, or destroy such

number, he shall be punishable by the principal assistant, or a magistrate, or any officer lawfully having the powers of a magistrate, by a fine, not exceeding twenty rupees for every such offence, and in case of non-payment thereof, by imprisonment for any term not exceeding fifteen days.

VII. In case the amount of the said assessment, or any part thereof, shall be paid by any tenant, or the same be levied by seizure and sale of his goods and chattels, such tenant may deduct the amount of the payment or levy from the rent then due, or thereafter to become due, to his landlord; and such deduction shall be equivalent to payment of that amount; and the owner of any dwelling-house shall indemnify any person whose goods may be distrained for any assessment thereon or who may pay such assessment in order to avoid a distress or sale of his goods for such assessment.

VIII. The Commissioner of Arracan may, at his discretion, exempt any building from assessment.

IX. No assessment made under the authority of this Act shall be impeached or affected by reason of any mistake in the name of any person liable to assessment, or of any thing chargeable with assessment, provided the directions of this Act be in substance and effect complied with; and no assessment nor proceedings, nor other matter or thing had or done under this Act shall be removed by *certiorari*, or quashed, or set aside, for want of form or error of procedure in any Court of Justice, but only on the merits.

X. An appeal shall lie to the Commissioner of Arracan by any one who shall feel aggrieved by anything done under this Act.

XI. For the purposes of this Act, the following shall be the boundaries of the towns of Akyab and Kyouk Phyoo, *viz.*:

The boundaries of Akyab—to the north, the Charoogya creek; to the west, the said creek and a road running west and south until it joins the Bund called Morton's Bund, which leads down to the sea shore; to the south, the sea; to the east, the Akyab river and harbour.

The boundaries of Kyouk Phyoo—to the north, the sea; to the east, Oon Khyoung or Salt Golah creek; to the west, the Cantonments; to the south, Kulabadong Lands, Kangyeendan village, and Nga Tsoung's Grant.

MADRAS AND BOMBAY.—CORPORAL PUNISHMENTS.

Repealed by XVII of 1862

ACT No. I. OF 1853.

[*Passed on the 4th February*, 1853.

Recites expediency of substituting corporal punishment for imprisonment in certain cases of petty thefts: Enacts:

1, 2. *Magistrate, &c. of Madras or Bombay shall on conviction of theft not exceeding* 50 *rupees, if convict be a male and of tender years sentence to punishment not exceeding* 10 *stripes with a light ratan on palm or back* (2) *to be inflicted in the presence of the convicting Magistrate.*

An Act for providing in the Presidencies of Fort St. George and Bombay for the punishment of Males of tender age for Petty Thefts.

Whereas it is expedient, until adequate improvements in Prison Discipline can be effected at the Presidencies of Fort St. George and Bombay, to substitute corporal punishment for imprisonment, in case of offences committed by males of tender age, who should be punished rather in the way of school discipline than of ordinary criminal justice, It is enacted as follows:

I. Every Magistrate, Joint Magistrate or First Assistant Magistrate in either of the Presidencies of Fort St. George or Bombay; and every Deputy or Assistant Magistrate in either of the said Presidencies, to whom the Governor in Council of the Presidency in which he is such Deputy or Assistant Magistrate may grant authority, shall, on conviction of theft of property not exceeding in value rupees fifty, if the person convicted be a male, and shall appear to him, by inspection or other evidence, to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, sentence such person to corporal punishment with a light ratan, not exceeding ten stripes, to be inflicted on the bare palm of the hand, or through a light garment on the back.

II. In cases of sentences to corporal punishment as aforesaid, no other punishment shall be superadded, and the punishment shall be inflicted on all occasions in the presence of the officer who awards it.

BURDENS ON LAND.

ACT No. II. OF 1853.

[*Passed on the 4th February*, 1853.

Recites Act 4, 1837, *which opens the territories of the E. I. Co. to British people; also recites doubts as to liability of British people to certain local boundaries incident to landholding. Enacts:*

1. *Abolishes exemptions of any person by reason of place of birth or descent, from any public charge or assessment or any duty of any kind of a public nature.*

2. *Every person to be subject to same laws and jurisdictions as natives, in respect of any default of public duty.*

An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.

Whereas by virtue of Act No. IV. 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the Territories under the Government of the East India Company; and whereas doubts have arisen whether all subjects of Her Majesty acquiring or holding property in land, or in any emoluments issuing out of land, or acting as local Agents or Managers of such property, are subject to the same jurisdictions as Natives for enforcing the discharge of public and Police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local Agents or Managers thereof, should be liable to the public burthens and duties incident thereto, and in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as Natives; It is therefore declared and enacted as follows:

I. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said Territories, whether in perpetuity or for a term, or being a local Agent or Manager of any such property, is by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from

any duty connected with the Police, or with the Salt or Opium revenue, or from any duty whatsoever of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local Agent or Manager thereof.

II. For the non-payment of any such public charge or assessment, or for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person whatever may have been his place of birth, or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdictions as if he were a Native of the said Territories.

GREAT INDIAN PENINSULAR RAILWAY COMPANY.

ACT NO. III. OF 1853.

[*Passed on the* 11*th March*, 1853.

Recites expediency of providing rules for regulating Railway, preventing fraud on the Company, &c. Enacts:

1. *No person to enter carriage without a ticket. Ticket to specify what, to be shown when required, and delivered up at end of journey. Passenger without ticket to pay full fare.*

2. *Rule in case of tickets being issued at intermediate stations for persons for whom there is not room when the train comes*

3. *Establishes a penalty of* 20 *rupees against persons attempting to defraud the Company by taking places without paying.*

4. *Establishes penalty of* 20 *rupees against persons attempting to get upon or quit carriage when in motion.*

5. *Establishes penalty of* 20 *rupees against any person attempting to ride on locomotive engine or tender, &c. without special licence.*

6. *Prohibits smoking in carriages except those in which it is permitted by regulation, and authorizes removal of person who insists on smoking contrary to regulation.*

7. *Establishes penalty against persons found in carriage, &c. in state of intoxication, &c. or committing nuisance, &c. and such person may also be removed.*

8. *Establishes penalty against male persons who enter carriage specially appropriated to females.*

9. *Company not to be answerable for passengers' luggage unless it has been booked and paid for.*

10. *Empowers the Company to sell goods for price of carriage if not paid on demand.*

11, 12. *Entitles the Company to require from persons bringing any goods for carriage an exact account in writing of number and quantity thereof: and* (12) *in default of giving such account to pay penalty.*

13. *Company may refuse to carry goods which they may deem or suspect to be of a dangerous character, and persons carrying such goods to be liable to penalty.*

14. *Establishes penalty against persons obstructing servant of the Company in his duty.*

15. *Trespassers on lands, &c. of Company to be liable to a penalty: to a further penalty if they do not quit on request, and they may be removed.*

16. *Persons taking beasts, &c. across the railway except at appointed crossings to be liable to penalty.*

17. *Owners of animals straying on railway to be liable to penalty.*

18. *Establishes penalty against persons removing, &c. lamps, damaging, &c. carriages, &c. and makes them liable to indemnify Company.*

19. *Establishes penalty against person who has a gate opening on the railway, if he opens or passes through the same, &c. when train is in sight and under other specified circumstances.*

20. *Persons liable to penalties, but whose name and address are unknown, may be detained and taken before Magistrate.*

21. *Persons wilfully doing or ommitting to do any thing with intention or likelihood thereby of causing engine, &c. to be obstructed, &c. and life, &c. endangered, are to be liable to transportation or imprisonment.*

22. *Servants of the Company omitting or doing any act, whereby life or limb of a passenger shall be endangered, liable to imprisonment.*

23. *Servants of the Company in a state of intoxication while performing duty, the ill performance of which may endanger life, &c. to be liable to imprisonment.*

24. *Defines the legal obligations of servants of the Company, in respect of which they may become criminally liable under this Act.*

An Act relating to the Railway belonging to the Great Indian Peninsula Railway Company in the Presidency of Bombay.

Whereas it is expedient before the opening of any part of the Railway belonging to the Great Indian Peninsula Railway Company, in the Presidency of Bombay, to provide rules for regulating the said Railway, for preventing frauds upon the said Company, and for the punishment of certain offences which may endanger the safety of persons travelling upon the said Railway; It is enacted as follows:

I. No passenger shall enter any Carriage used on the aforesaid Railway, without having first paid his fare and obtained a ticket. Each passenger, on payment of his fare, shall be furnished with a ticket, specifying the class of Carriage and the distance for which the fare has been paid; each passenger shall, when required, show his ticket to any servant of the said Company duly authorized to examine the same, and shall deliver up such

ticket upon demand, to any of the Company's servants duly authorized to collect tickets. Any passenger, not producing or delivering up his ticket as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, and has paid his fare for such less distance.

II. At the intermediate stations the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there shall be room in the train for which the tickets shall be furnished. In case there shall not be room for all the passengers to whom tickets shall be furnished, those who shall have obtained tickets for the longest distance shall have the preference, and those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets.

III. Any person, who shall attempt to defraud the Company by travelling, or attempting to travel, upon the Railway without having previously paid his fare, or by riding in or upon a Carriage of a higher class than that for which he shall have paid his fare, or by continuing his journey in or upon any of the Carriages of the Company beyond the place for which he shall have paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof, or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such Carriage, or who shall in any other manner whatever, attempt to evade the payment of his fare, is hereby subjected to a penalty, not exceeding Twenty Rupees.

IV. Any passenger, who shall get into or upon, or attempt to get into or upon, or shall quit or attempt to quit any Carriage while such Carriage is in motion, or who shall ride or attempt to ride on the steps or any other part of a Carriage except on those parts which are intended for the accommodation of passengers, shall be liable to a penalty, not exceeding Twenty Rupees.

V. Any person other than the engine-man and fire-man, who shall ride or attempt to ride upon any locomotive engine or tender, and any person other than the guard or breaksman, who shall ride or attempt to ride upon any luggage, van or goods-

waggon, without the special licence of the Superintendent of Locomotives, shall be liable to a penalty, not exceeding Twenty Rupees for each offence.

VI. No person shall smoke either on the Company's premises, or in or upon any of their Carriages (except in places or Carriages which may be specially provided for the purpose); any person infringing this regulation is hereby subjected to a penalty not exceeding Twenty Rupees, and any person persisting in such infringement after being warned to desist by any of the Company's servants, in addition to incurring the penalty abovementioned, may immediately, or at the first opportunity, be removed from the Company's premises, and shall forfeit his fare.

VII. Any person who shall be found in any Railway Carriage, or any part of the Company's premises, in a state of intoxication, or committing any nuisance, or act of indecency, or shall wilfully and without lawful excuse interfere with the comfort of any passenger on the Railway, shall be liable to a penalty not exceeding Twenty Rupees; and in addition to such liability the offender may immediately, or at the first opportunity of travelling, be removed from the Company's premises, and shall forfeit his fare.

VIII. If any special Carriage, or portion of a Carriage, or any private room or apartment shall be provided for the exclusive use of females, any male person who shall enter such Carriage or portion of a Carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or who shall remain therein after having been informed of its exclusive appropriation, shall be liable to a penalty, not exceeding Twenty Rupeess, and may be immediately removed therefrom, and also from the Company's premises, and shall forfeit his fare.

IX. The Company shall not in any case be answerable for passengers' luggage, unless it shall have been booked and separately paid for.

X. If any person shall fail to pay on demand any sum due for the conveyance of any goods conveyed upon the Railway, it shall be lawful for the Company to detain and sell all or any part of such goods, or if the same shall have been removed from the premises of the Company, it shall be lawful for them to

detain and sell any other goods on their premises belonging to the party liable to pay such sum, and out of the money arising from such sale to retain the sum payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the money arising by such sale and such of the goods as shall remain unsold, to the person entitled thereto, or the Company may recover any such sum by action at law.

XI. The owner or person having the care of any goods which shall have been carried upon the said Railway, or shall be brought on to the premises of the said Railway Company for the purpose of being carried on their Railway, shall, on demand by any servant of the Company appointed to receive goods to be carried on that part of the Railway on which such goods shall have been carried, or shall be about to be carried, deliver to such servant an exact account in writing signed by him of the number or quantity of such goods.

XII. If any such owner or person as aforesaid shall fail to give such account to such servant of the Company demanding the same, or if he shall give a false account thereof, he shall for every such offence, forfeit to the Company a sum not exceeding Fifty Rupees for every ton of goods, or for any parcel exceeding one hundred weight, (as the case may be), in addition to the sum payable for the carriage of such goods.

XIII. No person shall be entitled to carry, or to require the Company to carry, upon the Railway, any goods which in the judgment of the Company shall be of a dangerous nature; and if any person shall cause any dangerous goods to be carried upon the said Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the Book-keeper or other servant of the Company to whom the same shall be delivered for the purpose of being so carried, he shall forfeit to the Company Two Hundred Rupees for every such offence; and it shall be lawful for the Company to refuse to carry any parcel that they may suspect to contain goods of a dangerous nature, or to require the same to be opened to ascertain the fact previously to carrying the same

XIV. Any person who shall wilfully obstruct or impede any officer or servant of the Company in the discharge of his duty

on the Railway, or any of the works, stations or premises connected therewith, shall be liable to a penalty, not exceeding Fifty Rupees.

XV. Any person who shall trespass upon the Railway, or on any of the lands, stations or other premises belonging to the Company, shall be liable to a penalty not exceeding Twenty Rupees; and if any such person shall refuse to leave such premises on being requested to do so by any officer, servant or other person on behalf of the Company, he shall be liable to a penalty not exceeding Fifty Rupees, and may be immediately removed from such premises by such officer, servant, or other person as aforesaid.

XVI. Any person who shall ride, lead, or drive upon or across the said Railway, or any part thereof, any beast or animal, (except in directly crossing the said Railway at any road or place appointed for that purpose, at a time at which he shall be lawfully authorized so to do,) shall be liable to a penalty not exceeding Fifty Rupees for each offence.

XVII. The owner of any animal which shall be found straying on the Railway, or on any lands belonging to the Company, shall be liable to a penalty not exceeding Ten Rupees for each animal.

XVIII. Any person who shall unlawfully and wilfully remove or deface the number-plates, or remove or extinguish any lamp or any carriage belonging to the said Company, or shall wilfully damage or injure any carriage, engine, waggon, truck, warehouse, building, machine, fence, or any other matter or thing belonging to the Company, shall be liable to a penalty not exceeding Fifty Rupees, in addition to the amount of damage done.

XIX. If any person for whose use or accommodation any gate shall have been set up by the said Company on either side of the said Railway, or any other person, shall open such gate, or pass or attempt to pass, or drive or attempt to drive any animal across the said Railway, at a time when any engine or train passing along the same shall be in sight, or who shall at any time omit to shut and fasten such gate as soon as he and any carriage, cattle or other animals or things under his charge shall have passed through the same, he shall forfeit for every such offence a sum not exceeding Fifty Rupees.

XX. If any person shall commit any offence against this Act to which any penalty is attached, and the name and address of such person shall be unknown, any officer or servant of the Company, or any Police Officer, may lawfully apprehend and detain such person until he can conveniently be taken before a Magistrate, or other officer having jurisdiction over the offence, or until he shall be otherwise discharged by due course of law.

XXI. Whoever shall wilfully do any act or omit to do what he shall be legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause, any engine, tender, carriage, or truck upon the said Railway to be obstructed, mismanaged, overthrown, or damaged in its passage upon the said Railway, and the life or limb of any person to be thereby endangered, shall be liable to be transported beyond sea for the term of his life, or to be imprisoned, with or without hard labour, for any term not exceeding seven years.

XXII. If any officer or servant of the said Company shall wilfully or negligently omit to do what he shall be legally bound to do, and if in consequence of such omission, the life or limb of any person shall be endangered, such officer or servant shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years.

XXIII. If any officer or servant of the said Company shall be in a state of intoxication whilst actually employed upon the Railway, or any of the works connected therewith, in the discharge of any duty, the omission or negligent performance of which would be likely to endanger the life or limb of any person, such officer or servant shall be liable to imprisonment, with or without hard labour, for a term not exceding one year.

XXIV. In the construction of this Act every officer or servant of the Company shall be deemed to be legally bound to do everything which he shall be required to do by any regulation having regard to public safety which shall be made by the said Railway Company, and allowed by the Government of Bombay, and of which such officer or servant shall have notice.

MADRAS.—TOBACCO MONOPOLY.

ACT No. IV. OF 1853.

[*Passed on the* 11*th March*, 1853.

Recites expediency of abolishing the tobacco monopoly in Coimbatore, Malabar and Canara, and repeals for that purpose, Madras R. 7 and 8 of 1811 *and parts of R* 5, 1831.

An Act for the abolition of the Government monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara.

Whereas it has been deemed expedient, that the monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara, shall be abolished, Regulations VII. and VIII. of 1811, and such parts of Regulation V. of 1831, of the Madras Code, as relate to the said monopoly, are hereby rescinded.

PRINCE OF WALES' ISLAND, SINGAPORE AND MALACCA.

ACT No. V. OF 1853.

[*Passed on the* 18*th March*, 1853.

Repeals last proviso of sec. 7 of Act 4, 1839; *prohibits J. P. from having a voice in case in which he is the party agrieved.*

An Act for the amendment of Act No IV. of 1839.

From the passing of this Act so much of Section VII. of Act No. IV. of 1839, as enacts that "no Justice of the Peace, being a proprietor or renter of a spice plantation or otherwise directly interested in the enforcement of the provisions of the said Act, shall sit and have a deliberative voice in the Court of Quarter Session when held at a Station where such Justice may be so interested," is repealed. Provided that no Justice of the Peace shall sit and have a deliberative voice in any case in which he may be the party aggrieved.

BENGAL.—SUMMARY SUITS AND SALES OF PUTNEE TALOOK IN EXECUTION.

ACT No. VI. OF 1853.

[*Passed on the* 15*th April.* 1853.

Recites transfer of Summary Suits from Judge to Collector, &c. and doubts in certain cases. Enacts:

1, 2. *If lands the subject of sale and under one tenure are situate in 2 Collectorates, the sale to be by Collector in whose jurisdiction the greater part lies; and (2) doubt as to the collectorate in which the lands or greater part lie, to be decided by Board of Revenue.*

3, 4, 5, 6. *Defines the meaning of the word "Collectorate." and (4) defines independent deputy to be a Collector; and (5) who is to be deemed an independent deputy; and (6) authorizes notice of sale to be stuck up at cutcherry of independent deputy.*

7. *What powers an independent deputy may exercise, and within what parts.*

8. *Notices to be stuck up at the Adawlut of the Zillah in which sale is to be made.*

9. *Gives validity to orders, sales, &c. made by improper Collector, and to insufficient notices before this Act, unless proceedings to invalidate have been commenced.*

10. *Extends Act* 25, 1850, *and B. R.* 8, 1819, *s.* 9, *subject to modification under B. R.* 7. 1832, *s.* 16. *c.* 1, *and Act* 25, 1850, *to all sales under Act* 8, 1835

An Act relating to Summary Suits for Arrears of rent, to sales of Putnee Talooks, and other saleable tenures, and to sales of land in satisfaction of Summary Decrees for rent.

Whereas, by Regulation VIII. 1831 of the Bengal Code, the hearing and decision of Summary Suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zillah or City Courts to the Collectors of Land Revenue of the several districts; and whereas by Regulation VII. 1832 of the Bengal Code, the conduct of sales of Putnee Talooks and other saleable tenures, under Regulations VIII. 1819, and I. 1820 of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land Revenue, or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided; and whereas by Act VIII. 1835, the power theretofore vested in the Judges of the Dewanny Adawlut of selling land in satisfaction of Summary Decrees for rent was transferred to the Collectors of Land Revenue, and it was enacted that all sales for the recovery of arrears of rent held under Clause 7, Section XV. Regulation VII. 1799, should be conducted by the Collector, his Deputy, or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the Cutcherry of the Zillah Court or local Adawlut, and that of the Collector; and whereas it is expedient that Act XXV. 1850, and Section IX. Regulation VIII. 1819, of the Bengal Code, as modified by Clause I, Section

XVI. Regulation VII. 1832 of the same Code, and as altered by the said Act XXV. 1850, should be extended to sales under Act VIII. 1835; and whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the zillah or other district of one Collector, form part of an entire estate, paying revenue to the Collector of another zillah or district: In order therefore to avoid such doubts, and also to define who are the proper Officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in Putnee, or other tenure, at one entire rent, are situate in two or more Collectorates, and to prevent any such decision or sale already made from being held invalid, upon the ground of its having been made by an Officer of a wrong district; It is enacted as follows:

I. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one Collectorate, the Collector of such Collectorate is the Collector to conduct the sale, or to hear and decide the suit. If one Talook or tenure shall comprise lands situate in two or more Collectorates, or if any lands situate in two or more Collectorates be held under one lease or engagement, or at one entire rent, the Collector, in whose Collectorate the greater part of such lands shall be situate, is the Collector to conduct the sale of such Talook, or tenure, or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

II. If a Collector, to whom application shall be made to exercise any of the powers above mentioned, shall entertain any doubt as to whether the lands or the greater part of them are situate within his Collectorate, he shall report the case for the order of the Board to which he is subordinate, and if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

III. The word "Collectorate" in this Act means the zillah or other district, to which a Collector is appointed, and no lands situate beyond the limits of such zillah or district shall be deemed to be situate within the Collectorate, by reason of their

forming part of an estate paying revenue to the Collector thereof.

IV. An independent Deputy Collector may, within his Deputy Collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his Collectorate, and with referrence to the exercise of such powers and jurisdictions, his Deputy Collectorate shall be deemed a Collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

V. An independent Deputy Collector is an Officer appointed by Government to act as Deputy Collector, independently of a Collector, whether his office is one for the receipt of revenue or not. A Deputy Collectorate is the district within which an independent Deputy Collector is directed by Government to act.

VI. In cases of sales by an independent Deputy Collector, under the abovementioned Regulations or Act, any notice thereby required to be stuck up at the Cutcherry of the Collector, may be stuck up at the Cutcherry of the Deputy Collector.

VII. An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy Collectorate in public Cutcherry, in whatever part of his Deputy Collectorate the same may be situate or held.

VIII. Any notice required by the abovementioned Regulations or Act, to be given by advertisement to be stuck up at the Cutcherry of the Zillah Court or local Adawlut, shall be stuck up at the Zillah Court or local Adawlut within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

IX. No order, decision, or sale, made in the discharge of any of the duties aforesaid under any of the aforesaid Regulations, or under the aforesaid Act, before the passing of this Act, shall be disputed, or deemed invalid, upon the ground that the Collector, Deputy Collector, or other Officer making the same, was not the Collector, Deputy Collector or Officer of the proper district; or upon the ground that the Cutcherry, at which notice of such sale was given, was not the Cutcherry of the proper district, unless proceedings shall, previously to the passing of this Act, have been commenced, for the purpose of dis-

puting the validity of such order, decision, or sale, upon such ground.

X. Act XXV. 1850, and Section IX. Regulation VIII. 1819 of the Bengal Code, as modified by Clause 1. Section XVI. Regulation VII. 1832 of the same Code, except so far as the same has been altered by the said Act XXV. 1850, are hereby extended to all sales under Act VIII. 1835.

CRIMINAL JURISDICTION OVER BRITISH SUBJECTS.

ACT No. VII. OF 1853.

[*Passed on the* 15*th April,* 1853.

Recites 53 *G.* 3 *c.* 155. *s.* 105 *and expediency of extending the same subject to the amendments thereof by Act* 4, 1843 *to cases of specified offences against the property of any person whether native or otherwise. Enacts:*

1. *Extends the provisions of recited Statute and Act to all cases of assault, &c. not being felonies committed beyond the Presidency towns, by British subjects or others against any person or property whatever.*

2. *Joint Magistrates to have jurisdiction in such cases as Magistrates.*

An Act to extend the jurisdiction of Magistrates, under the 53rd George 3rd, Cap. 155, Sec. 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.

Whereas, by an Act passed in the 53rd year of the reign of King George the 3rd, it was enacted amongst other things that it should be lawful for any Native of India resident in the East Indies or parts therein mentioned, and out of the Towns of Calcutta, Madras and Bombay, in case of any assault, forcible entry, or other injury accompanied with force, not being felony, alleged to have been done against his person or property by a British subject, to complain of such assault, forcible entry, or other injury accompanied with force, not being felony, to the Magistrate of the zillah, or district where the alleged offender should be resident, or in which such offence should have been committed, and that such Magistrate should have the power and authority therein mentioned: and whereas Natives of India, resident in the East Indies, upon complaints preferred by them under the aforesaid provisions of the said Act, may be prevented from obtaining redress under the same, by reason of their

inability to prove the place of their birth; and whereas it is expedient to extend the aforesaid provisions of the said Act as amended by Act IV. 1843, to cases of assault, forcible entries, and other injuries accompanied with force, not being felonies, committed in any part of the territories under the Government of the East India Company, not being within the said Towns of Calcutta or Madras, or the Islands of Bombay and Colaba, or the settlement of Prince of Wales' Island, Singapore and Malacca, against the person or property of any person whatever, whether a Native of India or not: It is enacted as follows:

I. The provisions of the said Act of the 53rd George 3rd and of Act IV. 1843, so far as the said provisions extend to cases of assault, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any Native of India, are hereby extended to the case of any assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the territories under the Government of the East India Company, not being within the said towns of Calcutta or Madras, the said Islands of Bombay and Colaba, or the said settlement of Prince of Wales' Island, Singapore and Malacca, by any British subject or other person, against the person or property of any person whatever.

II. The powers in such cases given to the Magistrate of the zillah or district, may be lawfully exercised by any Joint Magistrate or other person lawfully exercising the powers of a Magistrate, in the case of any such offence as aforesaid, which may hereafter be committed within the district over which his authority extends.

LAPSED STATE OF COLABA.

ACT No. VIII. OF 1853.

[*Passed on the* 15*th April*, 1853.

1. *Repeals Act* 17, 1844, *and makes the state of Colaba subject to all Regulations in force generally.*

2. *Subjects of suit specified under* 5 *classes not to be subject to civil court in Colaba.*

3. *Empowers the Bombay Government to exempt in matters of civil suit*

Yeshudabaee Saheb Angria from the jurisdiction of the civil courts and to make her amenable to an agent to be appointed for the purpose.

An Act for bringing the lapsed State of Colaba under the Laws of the Presidency of Bombay.

Whereas it is no longer necessary that the lapsed State of Colaba, should be exempted from the general rules of the British Administration; It is hereby enacted as follows:

I. From and after such day as shall be appointed in that behalf by the Governor of Bombay in Council, by Proclamation to be made and published in the *Bombay Gazette*, Act XVII. 1844, shall be repealed, and the lapsed State of Colaba mentioned in that Act shall be subject to all Regulations and Acts which are, or shall be, in force within the territories subject to the Presidency of Bombay.

II. Suits on the following subjects shall not be cognizable by the Civil Courts within the said lapsed State of Colaba:

1st. All claims for damages against persons in authority under the late Government, for abuse of power during that period.

2nd. All claims against Government on account of Enams.

3rd. All claims against Government on account of Jagheers, Wurshasuns, Pensions, Nemnooks and other advantages not hereditary.

4th. All disputes regarding Public Rent or Revenue payable to Government, and all complaints of exaction by Mamlutdars, or District or Village Officers.

5th. All claims on account of village debts, all village boundary disputes, and village disputes regarding the use of wells and water-courses.

III. The Governor of Bombay in Council is empowered to exempt from the Jurisdiction of the Civil Courts, in all matters partaking of the nature of a Civil suit, Yeshudabaee Saheb Angria, a relative of the late Angria Sirkell, and to declare this lady amenable to the authority of an Agent whom he may appoint for this purpose.

BENGAL.—SUMMARY SUITS AND SALES OF PUTNEE TALOOKS IN EXECUTION.

ACT No. IX. OF 1853.

[*Passed on the 22nd April*, 1853.

Limits operation of Act 6, 1853, to future sales.

An Act to amend Act No. VI. 1853.

It is hereby enacted, that the first eight Sections of Act No. VI. of 1853, shall not extend to any case in which a petition for the sale of any saleable tenure was presented on the first day of Bysack, 1260, of the Bengal era, nor to any case in which any proceedings were pending at the time of the passing of the said Act.

BENGAL.—EASTERN CANAL TOLLS.

ACT No. X. OF 1853.

[*Passed on the 15th July*, 1853.

1. *Repeals s. 4 of Act* 22, 1836.
2. *Empowers Government to regulate the time for boats, &c. to remain in the canal and to establish demurrage charges.*
3. *Extends to demands under this Act the provisions of Act* 22, 1836.

An Act to amend Act No. XXII. of 1836.

Whereas it is expedient to prevent boats, rafts and floats from remaining longer than necessary, in any part of the lines of Navigation described in Act No. XXII. of 1836, it is enacted as follows:

I. Section IV. of the said Act is repealed, except as to rent now due under any order or notification made in pursuance of the provisions thereof.

II. The Governor of Bengal shall be competent to prescribe the length of time during which boats, rafts or floats may remain in any part of either of the lines of Navigation aforesaid without paying rent or demurrage, and also the rate of rent or demurrage to be levied on any boat, raft or float which shall remain therein longer than the prescribed time.

III. The provisions of Sections VII. VIII. and IX. of the said Act, so far as they apply to rent, are hereby extended to the rent or demurrage to be prescribed in pursuance of this Act.

BOMBAY AND COLABA.--NUISANCES.

ACT No. XI. OF 1853.

[*Passed on the 15th July*, 1853.

1. *Empowers the Collector, &c. to require the removal of Nuisances, &c. in the harbour, &c. and in default to abate them himself.*

2, 3, 4, *Authorizes the proprietor of the Nuisance on receipt of notice from Collector to apply by petition to Supreme Court, to stop proceedings of Collector, &c.* (3) *the onus probandi to lie on petitioner to prove his alleged right*; (4) *petition to be presented within a month, except under special circumstances.*

5. *Prescribes mode of proceeding in case of no petition being presented or of petition being decided against petitioner.*

7. *Empowers Collector to sell materials of encroachment.*

8. *Saves rights of E. I. Co. as trustees for the Crown, &c.*

9. *Defines the term "high water mark."*

Schedule. 1. *Notice.* 2. *Warrant.*

An Act to facilitate the removal of Nuisances and Encroachments below High-water Mark in the Islands of Bombay and Colaba.

Whereas there is a large sea-shore in the Islands of Bombay and Colaba, and it is expedient, with a view to the safe Navigation of the Harbour of Bombay, and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high-water mark in the said Harbour, or upon or about the shores of the said Islands, it is enacted as follows:

I. It shall be lawful for the Collector of Land Revenue Bombay to give notice requiring the removal of any nuisanc obstruction or enchroachment anywhere below high-water mark i the said Harbour of Bombay, or upon or about the shores of th said Islands; such notice shall be given by affixing the same i some conspicuous place on or near to the encroachment, obstruc tion or nuisance complained of, and by publication thereof in th *Bombay Government Gazette*, and shall state that unless th nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector; such notice may be in the Form No. I, in the Schedule to this Act annexed, or to the like effect.

II. If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month

after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay, by petition, setting forth the grounds of his alleged right, and praying that the said Collector may be restrained from causing such abatement or removal, and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

III. Upon the hearing of every such petition, the *onus* of proving the alleged right shall be on the petitioner.

IV. No person shall be allowed after the expiration of such period of one month to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay.

V. If no such petition shall be presented witihin said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid, by any person or persons to be authorized by warrant under his hand, and such warrant may be in the Form No. 2, in the Schedule to this Act annexed, or to the like effect; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.

VI. The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the Governor of Bombay in Council shall direct.

VII. Nothing in this Act shall prejudice or affect the rights of the East India Company as trustees for the Crown in any part of the said Harbour, or of the sea-shore of the said Islands,

or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.

VIII. The words "high-water mark" in this Act shall mean the ordinary line of high water at monsoon tides.

SCHEDULE.

FORM No. 1.

Notice is hereby given by the Collector of Land Revenue in Bombay, under Act No. XI. of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof, otherwise the same will be removed or abated by the said Collector under the authority of the said Act. Dated the day of
in the year of our Lord

(Signature of Collector.)

FORM No. 2.

This Warrant, granted by the Collector of Land Revenue in Bombay, under Act No. XI. of 1853, is to authorize
of to remove (*describe encroachment.*)
Dated

(Signature of Collector.)

GREAT INDIAN PENINSULA RAILWAY COMPANY.

ACT NO. XII. OF 1853.

[*Passed on the 22nd July*, 1853.

1, 2. *Empowers Magistrates within the islands of Bombay and Colaba to punish offences under Act* 3, 1853; (2) *Like provisions as to deputy and assistant Magistrates.*

3. *Fines recoverable in same manner as penalties.*

An Act supplemental to Act No. III. of 1853, relating to the Great Indian Peninsula Railway Company in the Presidency of Bombay.

Whereas by Act No. III. of 1853, certain offences are made punishable by Pecuniary penalties or forfeitures, and doubts have arisen whether such offences are punishable by Magistrates of Police in the Islands of Bombay and Colaba, and it is ex-

pedient to remove such doubts and also to define by what Officers such offences shall be punishable; It is enacted as follows:

I. Any person who shall be guilty of any offence for which, according to the provisions of the said Act, such person shall be liable to any pecuniary penalty or forfeiture, shall be punishable for such offence by any Magistrate of Police, Justice of the Peace, Magistrate, Joint Magistrate or person lawfully exercising the power of a Magistrate, within the local limits of whose jurisdiction such offence shall be committed, and any person hereby made punishable by a Magistrate of Police or Justice of the Peace, shall be punishable upon summary conviction.

II. Any Deputy or Assistant Magistrate, and any district or joint Police Officer, may, to the extent of the powers conferred upon him by the general Regulations of the Bombay Code, and by the Acts of the Governor General of India in Council, exercise the powers conferred upon a Magistrate by this Act, coupled with Act No. II. of 1839.

III. Payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under Section I. of the said Act, No. III. of 1853 may be enforced in the same manner as any penalty under this Act.

BOMBAY.—VISHALGHUR.

ACT No. XIII. OF 1853

[*Passed on the 29th July*, 1853

Recites that the possessions of Chief of Vishalghur, &c. have been added to the British

1. *Brings all the places mentioned in Schedule under the Bombay regulations, &c.*

2. *Retrospectively from Feb.* 1845, *brings under the regulations certain specified land formerly belonging to Scindia, &c.*

Schedules.

An Act for bringing under the operation of the Regulations and Acts in force in the Presidency of Bombay, certain Territories subordinate to that Presidency.

Whereas the possessions of the Chief of Vishalghur, situate below the Ghauts in the Southern Concan, have been added to the British Territories:

I. It is hereby enacted, that from and after the 1st day of September 1853 the villages and hamlets mentioned in the annexed Schedule shall be subject to all Regulations and Acts which are, or shall be in force within the Territories subject to the Presidency of Bombay.

II. It is hereby further enacted that the Purgunnahs of Yawul, Chopra, and Pachora, and the Turf of Lohara, in the Province of Khandesh, formerly belonging to His Highness Scindia, and which have been permanently ceded to the British Government, shall be deemed to have been subject, from the 26th of February, 1845, to the Regulations and Acts in force in the Bombay Presidency, to the same extent as if the said Purgunnahs and Turf had not been transferred to His Highness Scindia after the passing of Regulation XXIX. of 1827 of the Bombay Code, and shall continue to be subect to the extent to all Regulations and Acts which are, or shall be in force within the Territories subject to the Presicency of Bombay.

SCHEDULE.

Territorial description of the villages forming the Ghera of the Vishalghur Fort formerly belonging to the Pritinidhee of Vishalghur: they are bounded on the East by the Syhadree range, on the South and West by the Lanje Turf of the Rutnaghirree District, on the North by the Dewulé Turf of the Rutnaghirree District.

The Ghera is comprised of the under-mentioned villages and hamlets, 19:

1 Mouza Deode.
2 Ditto Bhudkumbé.
3 Ditto Wanjolee.
4 Ditto Kochré.
5 Ditto Veerowlee Boozoorg and Gowil.
6 Ditto Kolé Wadee,
7 Ditto Paloo.
8 Ditto Salpé.
9 Ditto Keirbet.
10 Wadee Ranjun.
11 Wadee Udhistee.
12 Ditto Chinchoortee.
13 Ditto Wud.
14 Mouzah Moorshee.
15 Ditto Bhowde.
16 Wadee Tipowné.
17 Khor Ninks Prubhau Wulla.
18 Wadee Oombrowné.
19. Ditto Manchal.

INDIAN NAVY.

ACT No. XIV. OF 1853

[*Passed on the 21st October,* 1853.

Recites expediency of providing for the due administration of effects of Officers, &c belonging to Indian Marine dying out of the U. K:—Enacts:

1. *Inventory of effects of Commissioned Officer dying, &c. to be made by specified Officer and transmitted together with an account of his debts and credits to Secretary of Government at Bombay.*

2. *Effects of non-commissioned Officers, Seamen, &c. to be collected and how applied.*

3. *If death happens while the Officer or Seaman is on detached duty in another Ship, the course prescribed above to be followed both in the Ship in which the death happens and in the Ship to which the deceased belonged.*

4. *Officer, &c. dying within the Presidency of Bombay away from his Ship and elsewhere than on temporary duty in another Ship, Commander-in-Chief of Indian Navy to appoint a Committee of three Officers for the purposes above prescribed.*

5. *Obliges Officers to do the service required by this Act.*

6. *Confiscates the surplus effects of Deserters to the East India Company.*

7. *Gives Officers performing the service required by this Act, legal power to recover debts, &c. and administer, and prohibits the Administrator General from interfering except when required.*

8. *Provides for the order of distribution and administration of effects, and gives protection to person administering.*

9. *Dispenses with probate and exempts from stamp duty in specified cases.*

10. *Provides against necessity of letters of administration or probate being taken out in places out of Bombay to which effects or proceeds may be remitted.*

11. *Undisposed of residue, at end of 12 months to be remitted to Court of Directors, to be by them disposed of legally.*

12. *Limits operation of Act to Europeans.*

13. *Substitutes this Act for Rules heretofore made by the Government of Bombay, and legalizes all acts done under those Rules heretofore.*

An Act for regulating the collection and distribution of the Effects of Officers, Seamen and others dying in the Marine Service of the East India Company called the Indian Navy.

Whereas it has been deemed expedient, in pursuance of the Provisions of an Act passed in a Session of Parliament holden in the 3rd and 4th years of the reign of Her Majesty Queen Victoria, to provide for the due collection, conversion into money, application, remittance and distribution of the effects of Officers,

Engineers, Soldiers, Marines, Seamen and all others, belonging to the Marine Establishment of the East India Company called the Indian Navy, who shall die in the Service of the said Company out of the United Kingdom, and for the discharge of their marine debts, It is enacted as follows:

I. When any Commissioned Officer belonging to the Indian Navy shall die in the Service of the East India Company out of the United Kingdom, whether his death shall take place on board Ship or on shore, the First Lieutenant of the Ship or Vessel to which such Officer belonged at the time of his death, or the Officer of such Ship or Vessel next in rank to the Commander thereof, or the Commander himself if there is no other Commissioned Officer on board, or any Officer he may appoint, shall immediately secure all the effects and equipage of the deceased on board the said Ship or Vessel, or on shore in quarters, and any other effects of the deceased within the territorial possessions of the East India Company which the Commander of such Ship or Vessel shall direct or authorize to be collected or secured, and shall with all convenient speed, and not later than one month after the death of the Officer, with the assistance of two other Officers not under the rank of Purser or of Clerk in charge, such clerk having served not less than two years at sea, to be appointed by the Commanding Officer of the said Ship or Vessel, make an inventory thereof, and transmit, that inventory together with an account of the debts and credits to the Office of the Secretary to the Government of the Presidency or Bombay in the Marine Department, to the end that after payment of such Officer's marine or ship debts and the expenses of his interment where any shall have been incurred, the overplus if any shall be paid over by the said Secretary to the legal representatives of the Officer so deceased as hereinafter mentioned.

II. When any Non-commissioned Officer, Seaman or other person belonging to or serving in the India Navy shall die out of the United Kingdom in the Service of the East India Company, whether his death shall take place on board Ship or on shore, the First Lieutenant of the Ship or Vessel to which such Non-commissioned Officer, Seaman or other person belonged at the time of his death, or the Officer of such Ship or Vessel next in rank to the Commander thereof, or the Commander himself if

there be no other Commissioned Officer on board, or any Officer he may appoint, shall immediately secure all the effects and equipage of the deceased on board the said Ship or Vessel, or on shore in quarters, and any other effects of the deceased within the territorial possessions of the East India Company which the Commander of the Ship or Vessel shall direct or authorize to be collected or secured, and shall with all convenient speed, not later than one month after the death, in the presence of two other Officers of the rank in the preceding section mentioned, to be appointed by the Commander of the said Ship or Vessel, take an inventory thereof and of his credits, and shall take care that the same be applied in the first instance to the liquidation of his marine or ship debts, the remainder, if any, to be paid over to the Secretary to the Government of Bombay in the Marine Department in order that the same may be paid to the legal representatives of the deceased.

III. When any such Commissioned or Non-commissioned Officer or Seaman, or other person shall at the time of his death as aforesaid have been detached temporarily from his own Ship and shall be serving with another Ship at a distance from his own, the Officers of the Ship in which the deceased was serving, as well as the Officers of the Ship to which the deceased belonged, at the time of his death, shall act in manner above directed in Sections I. and II. of this Act.

IV. If any Commissioned Officer, or Non-commissioned Officer, Seaman, or other person belonging to or serving in the Indian Navy shall die within the Presidency of Bombay, away from the Ship or Vessel to which he belongs, except when temporarily serving with another Ship, the Commander-in-Chief of the Indian Navy shall in such case appoint a Committee consisting of such three Officers as he may direct, to secure the effects of the deceased, or such of them as he may direct, and to apply the same and act in regard thereto as in the first and second Sections of this Act mentioned.

V. The said First Lieutenant and other Officers to be selected and appointed for the purposes aforesaid, are hereby required to take upon them the said duties, and faithfully discharge the same and in all respects to conform to the provisions and regulations hereinafter particularly specified.

VI. The effects and credits, within the territories under the Government of the East India Company, of Deserters from the Indian Navy, shall be collected and applied in like manner in payment of their marine or ship debts, and the remainder, if any, shall be brought to the credit of the said Company.

VII. It shall be lawful for the Officers, or other persons so authorized as aforesaid, to secure and collect the effects or any part of the effects of any such deceased Officer, Seaman or other person so dying as aforesaid, to ask, demand and receive any such effects to which his authority shall extend, and to commence, prosecute and carry on any actions or suits for the recovery thereof, and to sell and dispose of or otherwise deal with the same without taking out any letters of administration, either with any will annexed or otherwise, in every respect as if such Officers or persons employed or authorized as aforesaid had been appointed executors, and had proved the will or had taken out administration of such effects; and no Administrator General, Registrar of any Court in the East Indies, or any person acting under the appointment or authority of such Court *ad colligenda* or otherwise, shall in any manner interpose in relation to any such effects unless required or authorized so to do by any such Officer or person so authorized as aforesaid.

VIII. All sums of money due by deceased Officers, Engineers, Marines, Seamen and other persons beloning to or serving in the Indian Navy, to the Indian Navy Fund, or in respect of mess-bills unadjusted since the last regular issue of pay-bills, or in respect of Military or Marine clothing appointments, or of equipments or other articles supplied from the Ship's stores or of servants' wages due, or of any Ship expenses during the current month, or of any sanatarium or hospital charges, or of any mess or marine or ship accounts, and all sums of money due to any Agent or Pay-master, or Purser, or any other Officer upon any such account, or on account of any advance made for any such purpose, and also any charges or expenses attending or relating to the illness or funeral of any such Officer, Seaman or other person, shall be deemed and taken to be marine, or ship debts, and shall be paid out of any arrears of pay or allowances, or out of any prize or bounty money, or the equipage, goods, chat-

tels and effects of any Officer, Seaman or other person dying out of the United Kingdom while in the Service of the said Company, in preference to any other debts, claims or demands whatsoever upon the estate and effects of such Officer, Seaman or other person, and if any doubt shall arise as to whether any claim or demand made in relation to any Officer, Seaman or other person is a marine or ship debt or not, or whether such charges or expenses attending or relating to the illness or funeral of such Officer, Seaman or other person are proper to be allowed, or whether any such marine or ship debts remain due, such question shall be decided and concluded by any order or certificate to be made by the Secretary to the Government, and all such payments shall be good and valid in law; and every person who shall make any such payment out of any such arrears of pay, effects, or proceeds as aforesaid under the provisions of this Act, or in pursuance of any such order or certificate of such Marine Secretary, or into whose hands any such money shall come, shall be and is hereby indemnified for and in respect of such payments, and all other acts, matters and things done in pursuance of the provisions of this Act, or of he order or certificate of the said Secretary in relation to the distribution of such assets, any thing in any Act or Acts or law or laws to the contrary notwithstanding.

IX. All such marine or ship debts shall and may be paid without probate of any will or any letters of administration, and surpuls only of such arrears of pay or allowances, prize or bounty money, equipage, goods and chattels, or the proceeds thereof, shall be deemed the personal Estate of the deceased for the payment of duty in respect of any probate or of any letters of administration or for the purpose of distribution as personal estate, and it shall be lawful for the said Secretary to order and direct the payment or distribution of any such surplus, in any case in which the same shall not exceed Five hundred Company's rupees, without any probate or letters of administration, or payment of any duty of stamps or upon legacies or otherwise, and it shall also be lawful for any Pay-master or other person to issue any sum not exceeding the value of Five hundred Company's rupees which may be due to any such deceased Officer, Seaman, or other person unto the widow or relative of any such

Officer, Seaman or other person, or unto the representative or representatives of any such widow or relative in India in like manner, without any probate or letters of administration or payment of any duty of stamps, or upon legacies or otherwise, the same to be paid to the person who shall be notified by the said Secretary as aforesaid as being entitled thereto, and all such payments respectively shall be as valid and effectual to all intents and purposes, as if the same had been made by or to any executor or administrator or under the authority of any probate or letters of administration, anything in any Act or Acts or law or laws to the contrary notwithstanding.

X. Any such effects, or the proceeds or surplus of such effects of any Officer, Seaman or other person so dying, when remitted to any person under any order of the Secretary to the Government of Bombay, or to such Secretary, shall not by reason of coming to the hands of such person or Secretary be taken to be assests or effects in the place to which such proceeds or surplus may be remitted, so as to render it necessary that administration should be taken out in respect thereof, and it shall be lawful for the Secretary to the Government of Bombay to order that such effects or the proceeds or surplus of any such effects shall be remitted to any other place in India where the same can more conveniently be paid over to the person or persons entitled thereto, and the obedience to the orders of such Secretary in respect to the payment and disposal of any such effects, proceeds or surplus of such effects shall be a discharge from all actions, suits and demands in respect thereof, to any person to whose hands any such effects, proceeds or surplus shall have come, and which shall have been paid and disposed of under the order of such Secretary.

XI. The effects or the proceeds or surplus of effects of any such Officer, Seaman or other person dying as aforesaid, which shall remain after satisfying such marine or ship debts as aforesaid, shall with all convenient speed be transmitted to such Secretary as aforesaid, by the Officer or person employed or required to take care of, collect and receive the same, and such Secretary shall cause the same or the surplus thereof, remaining after satisfying such debts, and after and subject to such payment and application as is hereinbefore authorized, to be paid to

the executor or legal representative (if in India) of such Officer, Seaman or other person, or if such executor or legal representative shall not be in India, or shall not within twelve months from the death of such Officer, Seaman or other person claim such surplus, then and in that case such Secretary shall remit the said surplus to the Court of Directors of the East India Company in London, to be by them paid to the executor or legal representative of such Officer, Seaman or other person so deceased, and such remittance at the end of twelve months as aforesaid, shall be a discharge to such Secretary from all actions, suits and demands in respect of such surplus; provided always that the Registrars of Her Majesty's several Supreme Courts in India shall not, nor shall the Administrator General of either of the said Presidencies, be required or entitled to take out letters of administration with the will annexed, or otherwise in respect of such surplus.

XII. The provisions of this Act are intended to apply only to European Officers and Seaman, and to other persons being European belonging to the Indian Navy, who may die as aforesaid.

XIII. And whereas the Governor in Council of Bombay made certain Rules, bearing date 27th July 1844, to be observed on the decease of European Officers and European Seamen belonging to the Indian Naval Service, purporting to be Rules made in pursuance of the provisions of the said Act of the 3rd and 4th Victoria and the Articles of War thereto annexed, and which Rules have been acted upon, it is hereby enacted that the said Rules shall no longer be acted upon, but that all acts heretofore done within any part of the territories under the Government of the East India Company, which were authorized by the said Rules shall be deemed to be valid, and that no act thereby authorized to be done shall be questioned in any court of justice in any part of the territories under the Government of the East India Company.

BENGAL.—REGULAR APPEALS.

Repealed by X 27/61

ACT No. XV. OF 1853.

[*Passed on the 28th October*, 1853.

1. *Repeals Act* 4, 1850, *and s s.* 2, 3 *and* 4 *of Act* 30, 1850.

2. (1) *Petition of regular appeal to be presented within* 6 *weeks after the decision;* (2) *but time for presenting petition may be extended by either Sudder Court or Court below.*

3. *When petition is presented to the Court below, notice of presentation to be given to respondent, and proclamation thereof to be made, and how to be made.*

4. (1) *Modifies R.* 6, 1793 *s.* 11 *as to the papers required to be transmitted to the Sudder and specifies what papers shall be transmitted.* (2) *Party requiring copies of papers to be made for transmission, to give notice thereof in* 14 *days after proclamation.* (3) *Either party may give notice of papers required to be copied, before presentation of petition.*

5. *Petition of appeal when presented to the lower Court to be certified together with the record to Sudder and within what time.*

6, 7. *Grounds of appeal to be filed in Sudder within six weeks after arrival of record.* (7.) *Grounds of objection if any on part of respondent to the decision of Court below to be filed within* 4 *weeks;* (2) *and within same period objections if any to the appeal;* (3) *or if respondent objects to any part of decision not involved in the appeal, he may present a distinct petition.*

8. *Time at which the record on appeal shall be deemed complete; cls.* (2) (3) (4) *regulate course of proceedings when the respondent appeals against part of decision not involved in original appeal.*

9. *Respondent to appeal in Sudder if he has presented petition of appeal in Court below.*

10. *Grounds of appellant and respondent to be stated concisely and on Stamped paper except as hereinafter provided;* (2) *Sudder Court may extend time for filing grounds.*

11. *Court of appeal may allow grounds to be amended, the parties shall be confined but not the Court to grounds stated.*

12. *Empowers the Court to call up the case out of its order, for discussion of any grounds, without proceeding to final decision;* (2) *and if the appeal is on grounds of law, case may be called on at any time for decision;* (3) *and so if appeal is on grounds of fact and law, Court may call up the case for decision as to the law at any time.*

13. *In what manner parties shall proceed to obtain permission to appeal in* forma pauperis.

14. *Stamped paper dispensed with in favor of pauper appellants and respondents.*

15. *Decision not to be reversed, &c. for errors, defects or irregularities if same are not productive of injury to either party or not contrary to legislative act.*

An Act for the amendment of Procedure in cases of regular appeal to the Sudder Courts in the presidency of Fort William in Bengal.

Whereas it is desirable to simplify and shorten the procedure in regular appeals to the Courts of Sudder Dewanny Adawlut in the said Presidency; It is enacted as follows:

I. Act IV. 1850, and Sections II. III. and IV. Act XXX. 1850, are hereby repealed, except as to appeals presented before the passing of this Act.

II. *Clause 1st.*—Every petition of regular appeal in a case appealable to either of the said Sudder Courts shall be presented to the Court in which the decision was passed within six weeks from the day of the decision. Such petition of appeal shall, except in cases of petitions under Section XIII. of this Act, contain only notice that the party, being dissatisfied with the decision, is desirous of appealing from it.

Clause 2nd.—The Sudder Court may extend the time for presenting such petition of appeal to the lower Court, upon being satisfied that there is sufficient cause for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the lower Court, at the option of the applicant.

III. On presentation of a petition of regular appeal to the Court, in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that Court; and a copy of the proclamation shall be forthwith fixed up in some conspicuous part of the Court House of the said Court. If the notice cannot be personally served, the proclamation shall at once be fixed upon the door of the respondent's dwelling house, or in some conspicuous place in the village or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the jurisdiction of the Company's Courts, the proclamation may be fixed upon the door of his house of business or cutcherry, or the notice may be served on his known local agent. In case the proclamation cannot be fixed or the notice served in the manner above-mentioned, the proclamation shall be fixed up in such other place, if any, as the said last mentioned Court shall direct. The nazir shall make a return to

the Court stating when and where the notice and proclamation have been served or fixed up. The return of the nazir shall be filed in Court and shall form part of the record of the case, and such return shall be published by fixing up the same in some conspicuous part of the Court House of the lower Court.

IV. *Clause 1st.*—The Rule in Section XI. Regulation VI. 1793, which directs copies of all original papers transmitted to the Sudder Court with the record of an appealed case to be made out and deposited in the Court in lieu of the originals, is hereby modified, and it shall be necessary to copy, authenticate and deposit only the exhibits in the case, and also any other papers of importance, including the pleadings, or any parts of them which either of the parties shall require to be copied, authenticated and deposited in the lower Court previously to their being transmitted to the Sudder Court.

Clause 2nd.—If either of the parties require any papers to be copied, authenticated and deposited, such party shall either by himself or his pleader or authorized agent give notice in writing thereof to the lower Court, before the expiration of fourteen days from the time of the publication of the return of the nazir as aforesaid. Such notice shall specify the papers which the party requires to be copied authenticated and deposited.

Clause 3rd.—Either party may by himself or his pleader or authorized agent before the presentation of an appeal give notice in writing to the lower Court specifying any papers or documents which he requires to be copied, authenticated and deposited, in the event of an appeal being preferred.

V. The petition of appeal together with the record of the lower Court shall be certified to the Sudder Court as soon as conveniently may be after the presentation of the petition of appeal. Provided that the same shall not be certified within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated and deposited.

VI. On arrival of the appeal record at the Sudder Court, notice shall be affixed in the Court House of the said Court, requiring the appellant to file, within six weeks from the date thereof, his grounds of objection to the decision of the Court below. Within the said space of six weeks the appellant shall file in the said Sudder Court his grounds of objection to the decision.

VII. *Clause 1st.*—On the filing of the grounds of objection by the appellant, notice shall be affixed in the Court House of the Sudder Court requiring the respondent to file his grounds of objection, if any, to the appeal or to the decision of the lower court within four weeks from the date of such notice.

Clause 2nd.—Within the said space of four weeks, the respondent shall file any grounds of objection which he has to the appeal, or which relate to such parts of the decision as are involved in the appeal.

Clause 3rd.—If the respondent shall desire to object to any part of the decision of the lower court not involved in the appeal, he may present a separate petition of appeal to the Sudder Court within the said space of four weeks, or within such further time as the said Sudder Court shall allow for that pupose.

Clause 4th.—The respondent shall in such case file with his petition of appeal his grounds of objection to that part of the decision to which his appeal relates, otherwise his appeal shall not be received.

VIII. *Clause 1st.*—At the expiration of the time allowed to the respondent for filing his grounds of objection and for filing a separate petition of appeal in the Sudder Court, the record shall be deemed complete and the case ready to be called up for decision on any day which the Sudder Court may notify, unless the respondent within such time file a separate petition of appeal in the Sudder Court.

Clause 2nd.—If the respondent file a separate petition of appeal in the Sudder Court, notice shall be fixed up in the Court House of the Sudder Court to the effect that the respondent has filed such separate appeal, and the notice shall require the appellant to file any grounds of objection which he may have thereto, within the space of four weeks from the date of the notice.

Clause 3rd.—Within such space of four weeks the appellant may file any grounds of objection which he has to such appeal, or which relate to that part of the decision which is involved in the respondent's appeal. At the expiration of the time allowed for filing such grounds of objection by the appellant, the record shall be deemed complete, and the case ready to be called up

for decision on any day which the Sudder Court shall notify for that purpose.

Clause 4th.—If the appeal of either party be dismissed or withdrawn, the appeal of the other may be heard alone; otherwise the two appeals and the proceedings thereon shall form one record, unless the Sudder Court shall otherwise order.

IX. The respondent shall not be allowed to present a separate petition of appeal in the Sudder Court, if he shall previously have presented a petition of appeal to the lower court.

X. *Clause 1st.*—All grounds of objection which shall be filed by either the appellant or the respondent, shall be stated distinctly and concisely without any argument or narrative of facts, and shall be numbered consecutively, and except in the cases herein-after-mentioned, shall be on paper bearing the stamp duty prescribed by Article 9, Schedule B, Regulation X. 1829.

Clause 2nd.—The Sudder Court may extend the time for filing grounds of objection either by an appellant or respondent upon special application for that purpose, and upon sufficient reasons being shown to the satisfaction of the said Court for such extension of time. In such case the objections may be filed within such extended time.

XI. Either party may, by leave of the Sudder Court or any judge thereof, at any time before the hearing, amend his grounds of objection or add grounds of objection to those filed, upon such terms and conditions, and within such time as the said Court or judge may order. The said Court may also, upon the hearing of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge and be heard by himself or his pleader in support of any objection not included in his grounds of objection, upon such terms and conditions as to postponement of the cause, and as to the payment of costs or otherwise, as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise or otherwise. Without such leave of the Court, neither party shall be allowed to urge or be heard in support of any objection not included in his grounds of objection filed. But the Court shall not be confined to such grounds of objection on deciding the cause.

XII. *Clause 1st.*—The Sudder Court may call up for hearing and decision on any day the Court shall notify, and without regard to the place in which the case stands in the general list of appeals, any grounds of objection filed by the respondent or the appellant to the appeal of the opposite party, and the Sudder Court may hear and decide upon such grounds of objection before calling the case up for decision upon the grounds of objection to the decision of the lower court.

Clause 2nd.—If the grounds of objection filed by the appellant, and respondent, shall be upon points of law only, and shall not raise any question of fact, the Sudder Court may order the case to be called up for hearing and decision on any day which the said Court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said Court.

Clause 3rd.—If the grounds of objection filed shall raise questions of law and fact, and it shall appear to the Sudder Court that the decision of the law may render it unnecessary to determine any question of fact so raised, the Court may order the case to be called up for decision upon the law alone, in the first instance, in the manner pointed out in the last preceding Section, and if their decision of the case upon the law shall render it unnecessary to determine any question of fact, the said Court shall pass a final decision in the case, otherwise the Court shall determine the law only, and the case shall be afterwards set down in the list of regular appeals for hearing upon the question or questions of fact, and shall be determined in the same manner as any other regular appeal.

XIII. If any party to a regular suit be desirous of being admitted to appeal *in formâ pauperis* to the Sudder Court, the following procedure shall be adopted.

Clause 1st.—The appellant shall present his petition to the lower court according to the rules prescribed by Section II. of this Act. Provided that a petition to appeal *in formâ pauperis* against any decision passed before this Act shall come into operation, may be presented within three months from the day of the decision.

Clause 2nd.—Petitions of appeal by parties desirous to appeal *in formâ pauperis* shall contain a statement to that effect, and also a Schedule of the whole real and personal property belong-

ing to the petitioner, and the estimated value of such property, and shall be written on paper bearing the stamp duty of two Rupees per sheet.

Clause 3rd.—Upon the presentation of such petition, the notice to the respondent and the proclamation shall state that the appellant desires to appeal *in formâ pauperis.*

Clause 4th.—On arrival of the appeal record at the Sudder Court, the same procedure shall be adopted in that Court as in other cases of regular appeal, except that after the filing of the grounds of objection by the appellant, and before notice shall be given requiring the respondent to file his grounds of objection, the Sudder Court shall determine, according to the rules now applicable to the determination of such cases, whether or not the appellant shall be allowed to appeal *in formâ pauperis.*

Clause 5th.—If the Sudder Court allow the petitioner to appeal *in formâ pauperis,* notice shall be given to the respondent to file his grounds of objection in the manner provided by Section VII. of this Act, and the same procedure shall be adopted subsequently thereto as in other cases of regular appeal under this Act. The rules and conditions now applicable to persons admitted by the Sudder Court to appeal *in formâ pauperis* shall continue in force except where the same are inconsistent with any of the provisions of this Act.

Clause 6th.—If the Sudder Court refuse to allow the petitioner to appeal *in formâ pauperis,* the said Court may make an order to the effect that the appellant upon filing a petition of appeal in that Court, upon paper stamped with the stamp duty required by Article 8, Schedule B, Regulation X. 1829, and upon re-filing his grounds of objection on paper stamped with the stamp duty required by Article 9 of same Schedule, may proceed with the appeal according to the rules prescribed by this Act in the case of persons not appealing as paupers.

Clause 7th.—Upon such order being made, the appellant shall file his petition and re-file his objections upon paper stamped with the stamp duty required by Clause 5 of this Section, within two weeks from the date of such order, or within such further time as the said Court may allow for that purpose, otherwise the appeal shall stand dismissed.

Clause 8th.—Upon the re-filing of the grounds of objection

according to the provisions of the last preceding Clause, notice of the order and of the re-filing of such objections shall be given to the respondent in the manner prescribed by Section VII. of this Act, and the respondent shall be required to file his grounds of objection, if any, according to the provisions of that Section. The procedure subsequent to such notice shall be according to the general provisions of this Act.

Clause 9th.—If an appellant shall petition to appeal *in formâ pauperis*, his grounds of objection may be written on plain paper.

XIV. If an appellant shall be admitted to appeal or a respondent to defend *in formâ pauperis*, all grounds of objection subsequently filed by either party may be written on plain paper.

XV. No decision shall be reversed or altered, nor shall any case be remanded upon appeal to the Sudder Court on account of any error, defect or irregularity not productive of injury to either party, nor opposed to any express enactment contained in the general Regulations or Acts of Government.

XVI. This Act extends only to regular appeals which shall be presented after the passing of this Act in Civil cases appealable to either of the Sudder Courts in the Presidency of Fort William in Bengal.

SPECIAL APPEALS.

Repealed by X of 1861

ACT No. XVI. OF 1853.

[*Passed on the 18th November*, 1853.

1. *Repeals Act* 3, 1843, *except as to cases petitioned on before.*

2. *Cases petitioned on, but not under order, shall be within this Act.*

3. *Appeals admitted before this Act, but not determined, how to be proceeded with.*

4. *Specifies grounds on which a special appeal shall lie, viz.* (1) *a failure to decide all the material points in the case or a decision contrary to law;* (2) *misconstruction of any document;* (3) *ambiguity in the decision itself;* (4) *substantial error or defect in procedure, &c. if apparent on the record; but appeal not to lie on matter of fact.*

5. Cl. 1.—*Petition may be presented either in Sudder Court or Court below for transmission to S. C, but within* 3 *months, except on just cause for giving longer.*

Cl. 2.—*By what documents the petition must be accompanied.*

Cl. 3.—*Extension of time for appealing may be petitioned for.*

6. *Grounds of appeal to be set forth in petition and numbered.*

7. Cl. 1.—*Lists of petitions to be made out by S. C.; what the lists shall contain, and publication how to be made.*

Cl. 2.—*Gives the respondent right to state grounds of objection, by way of cross appeal.*

Cl. 3.—*Regulates mode of hearing petition and appeal.*

8. Cl. 1.—*Empowers one or more Sudder Judges to hear petition; and to permit amendment of petition; and to admit or reject petition, and otherwise to order as specified.*

Cl. 2.—*Order for admitting special appeal to specify grounds of admission.*

Cl. 3.—*When order for admitting appeal is passed, appeal to be put on file for hearing.*

Cl. 4.—*Order of one Judge for rejecting petition not to be final, but order of a second Judge for remand, rejection or admission, to be final.*

Cl. 5.—*Order for remand not to be made without notice to opposite party.*

Cl. 6.—*Judge ordering special appeal made may state grounds on which he grants it, &c.*

Cl. 7.—*On hearing petition for appeal the case of appeal may be decided at same time, if requisite number of Judges for deciding an appeal are present.*

9. Cl. 1.—*Order for rejecting special appeal must state grounds of rejection. Such order may be reviewed, and by whom.*

Cl. 2.—*If on review of order for rejection of appeal, Judges are divided petition to be admitted.*

Cl. 3.—*Petition for review to be presented on stamp of 2 Rs. per sheet.*

10. Cl. 1.—*Appeals to be heard by three or more Judges.*

Cl. 2.—*Court may allow grounds of petitions to be amended. Court itself not confined to objections made by party.*

11. *Saves all laws not repealed impliedly or expressly by this Act.*

An Act for Amending the Law of Special Appeals.

I. Act No. III. of 1843, is hereby repealed, except as to cases in which a petition for appeal shall have been presented before this Act shall come into operation.

II. If any application for a special appeal shall have been presented, and no order shall have been passed thereon before this Act shall come into operation, such application shall be heard and determined in the same manner as an appeal presented under this Act; and all the provisions of this Act shall extend to such application and to the hearing thereof, and to all subsequent proceedings thereon; and also to the hearing and determination of the appeal if the same shall be admitted.

III. If any such application shall have been presented, and the appeal admitted before the Act shall come into operation, the appeal shall be heard and determined, in the same manner

as if this Act had not been passed, except that the Sudder Courts shall determine the appeal without reference to the points certified, and may call for or refer to any part of the proceedings which may be necessary, and that the provisions of Section X. of this Act shall extend to such appeals.

IV. A special appeal shall lie to the Sudder Courts in the several Presidencies of Fort William in Bengal, Fort St. George and Bombay, from any decision passed on regular appeal in any of the Civil Courts subordiate to the said Sudder Courts respectively, on any of the following grounds.

1st. On the ground that the decision hath failed to determine all material points in difference in the cause, or hath determined the same or any of them contrary to law or usage having the force of law.

2nd. On the ground of a misconstruction of any document.

3rd. On the ground of any ambiguity in the decision affecting the merits.

4th. On the ground of any substantial error or defect in procedure, or in the investigation of the case, provided such error or defect be apparent on the record, and shall have produced, or be likely to have produced any error or defect in the decision of the case upon the merits. Provided always that no such special appeal shall lie, nor shall any such decision be reversed, altered, or remanded by any of the said Sudder Courts, upon the ground that the decision of any question of fact is contrary to or not warranted by the evidence duly taken in the cause, or any probability deduced from the record.

V. *Clause* 1.—A petition of special appeal may be presented in the Sudder Court or it may be presented in the Court in which the decision objected to was passed for transmission to the Sudder Court. In either case the petition must be presented within three months from the date of the decision appealed against, unless the petitioner can show just and reasonable cause to the satisfaction of the Sudder Court for not having presented it with in such limited period.

Clause 2.—Every such petition of special appeal shall be accompanied by authenticated copies of the decree objected to and of the decree of the Court of original jurisdiction. If the appeal be presented in the Court in which the decree objected

to was passed, such last mentioned Court shall forthwith forward the same to the Sudder Court with an endorsement thereon of the date on which it was presented, together with the copies of the decrees of the lower Courts by which it was accompanied.

Clause 3.—An application for an extension of the time for presenting a petition of special appeal may be made directly to the Sudder Court or through the intervention of the lower Court at the option of the applicant.

VI. Every petition for a special appeal shall set forth concisely and under distinct heads the grounds of objection to the decision appealed without any argument or narrative, and such grounds shall be numbered consecutively.

VII. *Clause* 1.—The Sudder Courts shall cause lists of the petitions, which shall be presented for the admission of special appeals to be prepared weekly, and to be affixed in the Court houses of the said Sudder Courts respectively. The said lists shall set forth the dates on which such petitions are likely to be brought on for hearing, and the said Sudder Courts shall cause extracts from the said lists to be transmitted to the Courts in which the decisions on regular appeal were passed; such extracts shall be affixed in some conspicuous place in the last mentioned Courts, and extracts therefrom shall be transmitted by such Courts to the Courts in which the original suits were instituted, and such last mentioned extracts shall be affixed in some conspicuous place in the said last mentioned Courts. The time to be fixed by the Sudder Court for the hearing of any petition shall not be less than six weeks from the date of despatch of the extracts referring to the same from the Sudder Court. The date of the despatch of each extract shall be notified thereon.

Clause 2.—At any time within the period of one month from the date of the despatch of the extract referring to the appeal or within such further time as the Sudder Court shall for just and reasonable cause, allow for that purpose, the respondent may present a separate petition of special appeal in the Sudder Court upon any of the grounds upon which a special appeal will lie against any part of the decision of the lower Court not involved in the appeal of the opposite party, provided the respondent shall not previously have presented a special appeal in the cause. Such petition however shall not be inserted in

any list to be prepared in pursuance of Clause 1, Sec. VII. of this Act.

Clause 3.— If the petition of appeal or the appeal of either party be dismissed, withdrawn or rejected, the application for appeal or the appeal, as the case may be, of the other party, shall be heard alone according to the provisions of this Act: otherwise, all applications for special appeal and all admitted special appeals relating to the same decision, shall respectively be heard together unless the Sudder Court shall otherwise order in any case.

VIII. *Clause* 1.—It shall be lawful for one or more of the Judges of the said Sudder Courts, respectively, to hear applications for special appeals, duly presented as aforesaid, in the presence of the appellant, or his pleader and also of the respondent or his pleader or such of them as shall attend, and it shall be competent for such Judge or Judges to call for and peruse any document forming a part of the record of the cause; or to order the amendment of the petition of special appeal forthwith, or within such time as he or they may order, not exceeding one month from the date of such order; or to make an order of reference to the Court which pronounced the decree appealed from for further information or explanation; or to pass an order for admitting the appeal for hearing or for rejecting the same; or, if it shall appear that the facts have not been sufficiently recorded, or that the case is otherwise so insufficient that the Sudder Court could not, if the appeal were admitted, pass a final decree thereon, but for no other cause, to issue an injunction, setting forth the errors, irregularities, or other defects in the decision appealed against, and remanding the same to the Court by which the same shall have been passed, in order that such decision may be reviewed by the last mentioned Court, and that such order or decree may be passed thereon as shall be conformable to law. Provided always that no such remand shall be ordered as aforesaid, except upon grounds whereon a special appeal will lie under this Act. If any such application shall be heard by only two Judges, and they differ in opinion as to admitting the appeal for hearing, it shall be admitted.

Clause 2.—An order for admitting a special appeal for hearing shall specify, for the information of the Court, the

grounds upon which it was admitted. But neither the Court nor the parties shall be confined to those grounds upon the hearing.

Clause 3.—If an order be passed for admitting the special appeal for hearing the case shall be brought on to the file of the Court to be heard and determined in due course.

Clause 4.—If an order for rejecting a special appeal or for remanding a case be made by one Judge only, such order shall not be final, but it shall be laid before another Judge of the same Court who shall hear the application for the appeal in the presence of the appellant or his pleader and also of the respondent or his pleader or such of them as shall attend. If the second Judge be of opinion that the appeal ought to be rejected or the case remanded he shall pass a final order to that effect; if he be of opinion that the appeal ought to be admitted he shall pass an order for admitting the same, and the appeal shall thereupon be admitted, heard and determined in due course, in the same manner as if it had been admitted in the first instance.

Clause 5.—A final order for remanding a case shall not be made without notice to the respondent to enable him to appear and be heard.

Clause 6.—Any Judge by whom an order for admitting a special appeal shall be made may certify that in his judgment the decision of the lower Court is manifestly erroneous upon any of the grounds upon which a special appeal will lie, and thereupon the appeal may be set down for hearing in a list to be called the list of certified special appeals. All cases entered in such list may be called up in due course for hearing and decision according to the provisions of this Act without regard to the general list of special appeals pending in the Sudder Court.

Clause 7.—If an application for a special appeal be heard by a number of Judges sufficient according to the provisions of this Act to hear and determine the appeal and it shall appear that the decision is manifestly erroneous, or that the case ought to be remanded, the appeal may be heard and determined forthwith, if the respondent or respondents be present or represented by a pleader or pleaders, otherwise the Court may order the

case to be entered in the list of certified appeals, and the same shall be entered accordingly.

IX. *Clause* 1.—Every order for rejecting a special appeal shall state the reason for disallowing each of the grounds set forth in the petition, and every such order of rejection may be once reviewed by the Judge or Judges by whom the same was passed or by any Judge or Judges sitting for or instead of him or them, if they or he shall think fit to review the same. Provided that no such review shall be allowed unless application for the same be made within three months from the date of such order.

Clause 2.—If any such order be rescinded or if the Judges who shall review the same shall be equally divided in opinion the appeal shall be admitted and the case brought on to the file of the Court and heard and determined in due course.

Clause 3.—A petition for the review of such order shall be written on paper stamped with a Government stamp of the value of two Rupees a sheet.

X. *Clause* 1.—When any special appeal shall be admitted, the same shall be heard and determined by three or more of the Judges of the Sudder Court, and such hearing and determination shall be upon all the grounds whereon a special appeal will lie under this Act.

Clause 2.—The Sudder Court may at any time before or at the time of the hearing of any special appeal or any application for a special appeal allow either party to amend the grounds of objection set forth in his petition, or to add further grounds of objection thereto; or to urge and be heard by himself or his pleader in support of any objection not included in his petition, upon such terms and conditions as to postponement of the hearing, and as to the payment of costs or otherwise as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise or otherwise. Without such leave of the Court, neither party shall be allowed to urge or be heard in support of any objection not set forth in his petition. But upon hearing the application or determining the appeal the Sudder Court shall not be confined to the grounds of objection set forth in the Petition.

XI. The existing Laws and Regulations of the Presidencies

of Bengal, Madras and Bombay, relating to special appeals shall continue in force, in the said Presidencies respectively, so far as they are not inconsistent with, or repealed by, this Act.

JAGHEER OF MAHARAJAH IMRIT RAO.

ACT No. XVII. OF 1853.

[*Passed on the* 18*th November*, 1853.

Recites death of M. Imrit Rao and expediency of bringing the tract of Country granted to him under the Regulations.

1. *Repeals Bengal Reg.* 7, 1816.

2, 3, 4, 5. *Makes the district recited subject to all laws and regulations;* (3) *and all cases to be tried according to them, saving the discretion of the Court as to any special equity;* (4) *but final decisions before* 6*th July* 1853 *not to be disturbed, &c.* (5) *and Act not to extend to offences within ss.* 3 *and* 4 *of B. Reg.* 7, 1816.

An Act to repeal Regulation VII. of 1816, and to declare the law which is to be in force in the tract of land granted to Maharajah Imrit Rao.

Whereas a tract of land situated near the town of Teroha, in the district of Banda, was granted as an independent Jagheer by the British Government to the Maharajah Imrit Rao, and whereas by Regulation VII. of 1816, of the Bengal Code, it was enacted that from and after the date of that Regulation, the jurisdiction of the Courts of Civil and Criminal judicature and the operation of the general Regulations should not extend to the tract of land aforesaid, and whereas Maharajah Benaik Rao, son of the said Maharajah Imrit Rao, died on the 6th day of July 1853, and it is now expedient to repeal the above-mentioned Regulation; It is enacted as follows:

I. Regulation VII. of 1816, of the Bengal Code, is hereby repealed.

II. The said tract of land, being part of the district of Banda, all Laws and Regulations now in force within that district shall be in force in the said tract of land.

III. All cases, Civil or Criminal, in which the cause of action arose, or the offence was committed, within the said tract of land, before the passing of this Act, may be tried and determined by the Courts of the said district of Banda, and the general Laws and Regulations now in force there may be applied and adminis-

tered by the said Courts in the trial and determination of such cases; but if in any Civil case it shall appear that the application of the said Laws and Regulations would operate unjustly if applied to the trial and determination thereof, it shall be lawful for the said Courts to try and determine the same according to equity and good conscience.

IV. Provided always, that no Court shall try or determine any case, Civil or Criminal, with respect to which a final decision was pronounced previously to the said 6th day of July 1853, by any Court or person within the said tract of land, having at the time of the decision lawful power and authority to pronounce it; and that with the exception of cases within the provisions of Section IV. of the said Regulation VII. of 1816, no act committed within the said tract of land prior to the 31st day of August 1853, shall be deemed an offence punishable under the provisions hereof, if at the time of the commission of such act the same was not contrary to the laws then in force in the said tract of land.

V. Nothing in this Act shall extend to any crime or offence within the provisions of Section III. or IV. of the said Regulation committed before the passing of this Act, but every such crime or offence shall be dealt with and punished as if this Act had not been passed.

Repealed as to Cantonments

MILITARY CANTONMENTS.

ACT No. XVIII. OF 1853.

[*Passed on the 2nd December*, 1853.

1. *Makes liable to fine or imprisonment any person not subject to Military Law who supplies spirituous liquor to or for the use of European Soldiers, &c.*

2. *Makes person convicted once liable to an increased fine or imprisonment for second offence and all liquor, &c. within cantonment belonging to him may be confiscated.*

3, 4. *Any camp follower, &c. having, &c. within cantonment, &c. liquor exceeding one seer without permit, to be liable to fine for first offence and fine or imprisonment for second; but* (4) *this provision not to apply to liquor brought into cantonment for use of non-commissioned officer.*

5. *Authorizes the arrest by police officer without warrant, of any person liable to conviction and also the seizure of the prohibited liquor; but both to be taken before Magistrate.*

6, 7. *Makes liable to fine person obstructing police officer, also police officer if he does not take person and thing seized before Magistrate, &c. also* (7) *if arrest and seizure be without probable cause, if without warrant.*

8. *No police officer competent to act without authority in writing of commanding officer, &c.*

9, 10. *Magistrate may adjudge vessel, liquor, &c. to be forfeited and may award fine to the informer:* (10) *and may detain vessel, &c. till case be decided.*

11. *Takes away right of appeal.*

12. *Makes British subjects amenable to Magistrate.*

13. *Gives superintendent of Bazars in Bombay power to enforce provisions of this Act.*

14. *Excludes from operation of Act articles supplied for medicinal purposes.*

15, 16. *Interpretation clause.* (16) *Act to come into operation from 1st Jan.* 1854 *and defines manner in which it shall be brought into operation.*

An Act for Regulating the Sale of Spirituous Liquors, &c. in Cantonments.

Whereas it is expedient to regulate the sale of spirituous liquors, wine and intoxicating drugs within Military Cantonments, It is enacted as follows:

I. If within any Military Cantonment or within any limits around the same to which the Provisions of this Act shall be extended by an order of Government to be publicly notified, any person not amenable to Articles of War or any Sutler or Camp follower shall knowingly barter, sell, or supply, or offer, or attempt to barter, sell or supply any spirituous liquor, wine or intoxicating drug, to, or for the use of any European Soldier, or to, or for the use of any European or Eurasian being a Camp follower or a Soldiers' wife, without a written license from the Officer Commanding at the Station, or from some person having sufficient authority from the Commanding Officer to grant such license, the person so bartering, selling, or supplying or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug, as aforesaid, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding one calendar month.

II. If any person convicted of an offence under Section I. of this Act, shall be convicted under that Section of an offence subsequently committed, he shall be liable to a fine not exceeding One Hundred Rupees, or to imprisonment, with or without

hard labour, for any period not exceeding three calendar months; and in such case any spirituous liquor, wine, or intoxicating drug, within such Cantonment, or limits, which at the time of the commission of such subsequent offence shall belong to, or be in the possession of such person, shall, without further proof be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

III. If any Camp follower or Military pensioner or the wife or the widow of any Soldier, Camp follower or Military pensioner shall within such Cantonment or limits remove, convey, or have in his or her possession any quantity of spirituous liquor, or wine, exceeding one seer or quart, without a permit, to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act; every such person shall be liable upon conviction to a fine not exceeding Fifty Rupees, and for any subsequent offence to a fine not exceeding One Hundred Rupees or to imprisionment, with or without hard labour, for any term not exceeding three calendar months.

IV. Section III. of this Act shall not apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

V. If any person, subject to the provisions of this Act, shall be found committing any offence contrary thereto, any Police Officer, authorized under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a Magistrate or other officer having jurisdiction to punish the offender.

VI. Any person, who shall obstruct any Police Officer in making any arrest, or seizure, under this Act, and any Police Officer, who shall not, without unreasonable delay, take the person, or thing so arrested or seized, before a Magistrate, or other Officer having jurisdiction to punish the offence, shall be

liable, on conviction before a Magistrate, to a fine, not exceeding One Hundred Rupees.

VII. Any Police Officer, who under color of this Act, shall, without probable cause, make any arrest, or seizure, without a warrant, shall, on conviction before a Magistrate, be liable to a fine not exceeding One Hundred Rupees, which fine or any part of it may be ordered by the Magistrate to be paid to the person aggrieved.

VIII. No Police Officer shall be competent to act under the provisions of Section V. of this Act, unless he shall have a general, or special authority so to do, granted to him in writing by the Commanding Officer, or other officer empowered by him to grant the same, or by the Officer in the immediate charge of the Police.

IX. In case of a conviction for any offence under this Act, the convicting Magistrate may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug, which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same, or any part thereof, to be confiscated; and such Magistrate may order the whole, or any part, or parts of any fine imposed under this Act, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

X. A Magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by a Magistrate to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

XI. No appeal shall lie from any order or conviction under the provisions of this Act.

XII. European British subjects shall be amenable to the jurisdiction of a Magistrate for any offence against the provisions of this Act.

XIII. Within the Presidency of Bombay the Superintendent of Bazars may punish any person for any offence against the provisions of this Act in the same manner and to the same extent as he is now authorized to do in any of the cases mentioned in Clause 3, Section XXVI. Regulation XXII. of 1827 of the Bombay Code.

XIV. This Act shall not apply to the sale, or supply of any article for medicinal purposes, by recognized medical practitioners, chemists, or druggists.

XV. In the construction of this Act the word "Cantonment" shall include a "Fortress, or Garrison" or *Military bazar station;* the word "Soldier" shall include any Non-Commissioned Officer; the word "Magistrate" shall include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, or a Justice of the Peace, the words "Spirituous liquor" shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.

XVI. This Act shall not come into operation before the 1st day of January 1854 and shall not take effect within any limits around a Cantonment which shall be specified in any order of Government before the expiration of one month from the date of the notification of such order, and any order for extending the provisions of this Act to any limits around a Cantonment may from time to time be varied, altered or suspended by Government.

BENGAL. E. I. CO.'S CIVIL COURTS.—EVIDENCE.

All but XIX & XXVI. is repealed by X of 1871 & the Repeal of Act VIII of 1872

ACT No. XIX. OF 1853.

[*Passed on the 2nd Dec.* 1853.

1. *Repeals Beng. Reg.* 23, 1814, *ss.* 33 *and* 73, *so far as they are inconsistent with this Act, Beng. Reg.* 24, 1814, *s.* 11 *partially; and Act* 6, 1843, *partially.*

2. *Makes parties to suits competent as witnesses, but to be examined in open Court except in specified cases.*

3. *Abolishes incompetency on ground of interest and relationship.*

4. *Husband and wife may be examined for or against one another, but in open Court, &c. except as to communications between one another, which are to be deemed privileged.*

5. *Party to suit compellable to give evidence and produce documents, &c.*

6. *Day to be appointed by the Court for the examination of witnesses, &c.*

7. *Lists of witnesses intended to be examined to be filed.*

8. *Order for attendance of party as witness to be made on sufficient cause shown.*

9, 10, Cl. 1, 2. 11. *Day to be fixed for showing cause why party should be summoned as witness.* (10 Cl. 1) *Cause may be shown by declaration in writing;* (10 Cl. 2) *for which, if false, party making it may be indicted for perjury:* (11) *if no sufficient cause shown compulsory summons to issue.*

12. *Persons may be summoned to produce documents, but expenses of witness to be deposited in Court and tendered to witness, and on attendance of witness Court may order further sum to be paid.*

13. *Describes what the summons shall contain.*

14, 15. *Summons to be served personally, &c.* (15) *in sufficient time before.*

16, 17, 18. *Person summoned only to produce a document may depute production; and* (17) *if producing it needs not be sworn: but* (18) *if summoned to be examined must personally attend.*

19, 20. *Witness not a party to suit not bound to produce his own title deeds: nor* (20) *any person to produce documents relating to affairs of state, &c.*

21, 22. *Parties to suit, not bound to produce documents not material or relevant, nor documents in his possession as professional adviser, &c: but documents thus exempted from production to the parties, must if required be produced to the Court confidentially: and the Court to decide on the use to be made of the documents.*

23. *Makes communications between clients and their professional agents privileged; but privilege is waived by party examining as witness his own professional agent.*

24. *Non-compliance with summons to give evidence and other breach of duty of person summoned, to be punishable and how.*

25. *Persons in Court may be required to give evidence as if they were summoned.*

26, 27. *Person absconding, &c. to avoid service of summons, &c. to be liable for damages; and* (27) *his property liable to be attached and sold: but order for attachment, &c. may be appealed against.*

28. Cl. 1, 2. 29. *Regulates the matter of costs of the attachment, &c. and empowers the Court to fine, &c. at its discretion: but* (28 Cl. 2) *the Court's order may be appealed against: and* (29) *all orders for fining or imprisoning to be appealable.*

30. *Defines the authority of the Court to postpone trials in case of non-attendance of witnesses.*

31. *Evidence to be taken viva voce in Court in writing by the Judge or by*

his direction and signed by witness; Also prescribes the course of proceeding in case question is objected to.

32. *Prescribes the manner in which the evidence of females may be obtained.*

33. *Empowers the Court to postpone trial on account of absence of a material witness, &c. and prescribes mode of proceeding in such case.*

34. *Directs trial to take place in ordinary course, if not specially postponed, and pleaders to be heard orally on both sides.*

35. *Empowers the Court for its own satisfaction to require further evidence not produced by the parties and directs in what way such evidence shall be obtained and taken.*

36. *Court may make order for witnesses to be out of Court during trial.*

37. *Parties if examined as witnesses to be punishable for false evidence like other witnesses.*

38. *Interprets parts of Act and provides against depositions by parties being used in their own favor except in certain cases.*

39. *No appeal to lie against order for summons of witness, &c.*

40. *Documents referred to in pleading to be filed with the pleading if in possession of party.*

41. *Interpretation clause.*

42, 43, 44. *Limits Act to Bengal and E I. Co.'s Courts:* (43) *ss.* 9, 10 *and* 11 *of this Act not extended to Chittagong: and* (44) *to come into operation on the 1st January* 1854.

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

Whereas the law of evidence administered by the Civil Courts of the Presidency of Fort William in Bengal and the rules for the attendance and examination of witnesses and the production of documents in such Courts, require amendment, It is enacted as follows:

I. Sections XXXIII. and LXXIII. Regulation XXIII. 1814, of the Bengal Code, so far as they are inconsistent with the provisions of this Act, Section XI. Regulation XXIV. 1814, of the same Code, except so far as it relates to the signing and issuing of any process of Court to which the signature of the judge may not be specially required, and Section I., Act VI. 1813, so far as it is authorizes the examination of witnesses according to the rules established by Section XI. Regulation XXIV. 1814, aforesaid, are hereby repealed.

II. In any regular or summary suit, appeal, or proceeding in any of the Civil Courts of the East India Company, and also in any summary suit, or other proceeding of a civil nature before

any Court, Officer, or other person having by law or by consent of parties authority to examine witnesses, any party to such suit, appeal, or proceeding, shall be competent and entitled to give evidence as a witness either on his own behalf, or on behalf of any other party to the suit, appeal, or proceeding in the same manner as if he were not a party to the same. Provided that no party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open court, in such manner as the Court may direct having regard to the usages and customs of the country, unless such examination shall be taken under, and subject to the Rules prescribed by Section XXXII. or XXXVIII. of this Act.

III. No person shall by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in any such suit.

IV. A husband or wife shall be competent to give evidence for or against the other provided that the examination shall take place in open Court in such manner as the Court may direct having regard to the usages and customs of the country, or that it be taken and read under, and subject to the Rules prescribed in Section XXXII. or XXXVIII. of this Act, provided also that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication, and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

V. Any party to a suit may be compelled to give evidence as a witness therein and also to produce any document in his possession or power, in the same manner, by the same process, and subject to the same Rules, as if he were not a party to the suit, except so far as is otherwise provided by this Act. Provided that no Court need to compel the attendance of any party to such suit, for the purpose of giving evidence therein if such party shall satisfy the Court that he has no personal knowledge of any material subject of inquiry in the suit, and that he can-

not give any material evidence therein. Nothing in this Clause shall exempt any party to a suit from being summoned to produce a document.

VI. After the parties in a suit in which according to the practice of the Court a day is fixed for the hearing, shall have filed their exhibits and lists of witnesses, the Court shall by an order in writing, appoint a day, not less than fifteen days after the date thereof, for the examination of witnesses and the hearing of the suit.

VII. The list of witnesses required to be furnished in any suit shall include the names of all the witnesses, whether parties to the suit or not, whom the party filing the list may intend to call as witnesses or whom he may require to be summoned to give evidence or produce any document, also a list of the documents which he may require to be produced.

VIII. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall by himself or his pleader make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the hearing, the application shall be made before such day shall be fixed.

IX. The Court, upon the application of the pleader of any party to a suit whose attendance as a witness is required, or without such application, if the Court think fit so to do, may, before making such order cause notice to be given to the party or his pleader fixing a day for such party to shew cause why he should not attend and give evidence and may also, from time to time if necessary, for good and sufficient cause, enlarge the time for such purpose.

X. *Clause* 1. In support of the cause shown, the Court shall receive a declaration in writing of the party, if signed by him, and delivered into the Court by himself or his pleader.

Clause 2 —If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

XI. If no sufficient cause be shown on the day fixed or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence.

XII. The Court on the requisition of any party to a suit, or his pleader, may cause a summons to be issued to every person who shall be required to produce any material document. Previously to the issuing of any summons for the attendance of any person to give evidence or produce a document, the party requiring the same shall pay into Court such sum as shall appear to the Court to be reasonable, to defray the travelling and other expenses of such person in passing to and from the Court in which he may be required to attend and give evidence, and for one day's attendance thereat. In fixing the sum to be paid into Court, regard shall be had to the rules, if any, established by the Court or Board, if any to which such Court shall be subordinate. The sum so paid into Court shall be tendered to the witness at the time of serving the summons if it can be served personally. In addition to the sum so paid into Court, the Court before whom any person who may attend in pursuance of a summons, or proclamation to give evidence or produce any document, may order such further sum to be paid to the person so attending by the person causing the summons or proclamation to be issued, as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons, or proclamation, and in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, and the witness shall not be bound to give evidence or produce any document until such sum shall be paid.

XIII. Every summons for the attendance of a witness to give evidence, or to produce a document shall require the intended witness to attend at a time and place to be named in the summons, and shall also state whether the attendance of the witness is required for the purpose of giving evidence, or producing a document, or for both purposes. If a witness, whether a party to the suit or not, is required to attend and to produce before the Court any document alleged by the party summoning him to be in his possession or power, a direction to attend the

Court with such document, shall be inserted in the summons, and the document which the witness may be so called upon to produce shall be described in the summons with convenient certainty.

XIV. Every such summons shall, if possible, be served personally upon the person thereby required to attend; by showing the original to such person, and at the same time delivering or tendering to him a copy thereof.

XV. Such service must be made a sufficient time before the time specified therein for his attendance to allow the witness a reasonable time for preparation and for travelling to the place at which his attendance is required.

XVI. Any person, whether a party to the suit or not may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

XVII. Any person who shall be summoned to appear and give evidence shall be bound to attend at the time and place named for that purpose.

XVIII. Any person attending to produce a document may be called upon to produce the same without being sworn or examined as a witness.

XIX. A witness not a party to the suit or proceeding in which he is summoned, shall not be bound to produce his own title deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.

XX. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

XXI. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any writing or correspondence which may have passed between him and any legal professional adviser. If any

party, however, offer himself as a witness, he shall be bound to produce any such writing or correspondence, in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

XXII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to produce it, or cause it to be produced to the Court, although there be a valid objection to the right of the party calling for it to compel its production, or to the reading, or putting it in as evidence, or to the disclosure of the contents thereof; the validity of any such objection made by the person producing the document shall be determined by the Court, and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court to inspect the document, and if necessary to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence. If the Court shall be of opinion that such document should not be produced, the Court shall not disclose the contents thereof to the parties, or take any note, or make any mention of the contents or effect thereof in its judgment or proceedings, but shall return the document at once to the party producing the same, having previously marked the same for the purpose of identification, and shall record in its proceedings that a document, identifying it by the mark put upon it, was called for, by the person, naming him, who shall call for its production, that the person having the possession of the document, naming him, objected to its production, and the reasons, if any, for such objection, together with the reasons of the Court for refusing to compel its production. If the Court shall refuse to enforce the production of a document, or to receive the same in evidence, the Court of appeal may, upon a regular appeal, compel the production of such document, and if such Court shall think that the production of the same ought to have been enforced, or that it ought to have been received in evidence, may themselves enforce its production, and receive it

in evidence, and decide the case upon such document, coupled with the other evidence given in the suit.

XXIII. A barrister, attorney, or vakeel, shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client; and if any party to a suit shall give evidence therein at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such barrister, attorney, or vakeel, of any such matter as aforesaid, which may be relevant, and which the barrister, attorney, or vakeel would have been bound to disclose, but for the privilege of his client, and the barrister, attorney, or vakeel, shall be bound, upon examination, to disclose any such matter.

XXIV. If any witness, whether a party to suit or not, to whom any summons to give evidence or produce a document, shall have been personally delivered, shall without lawful excuse, fail to comply with such summons as required by this Act, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the Court so to do, the Court shall have full power and authority to issue an order in writing to the nazir to apprehend and bring the witness before the Court; or, if he be already before the Court, to take him into custody. And such Court may impose on such witness a fine not exceeding five hundred rupees for his default or refusal, realizable by attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence or to sign his deposition, or to produce the document, and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of uch person. Provided that no fine imposed under the provisions of this section shall exceed the amount of the property in dispute in the suit. If any such person shall abscond, or keep out of the way, so that he cannot be seized or brought

before the Court, his property shall be liable to attachment and sale in the same manner as is provided by Section XXVII. of this Act, with respect to a witness on whom the service of a summons cannot be effected. If such person shall be a party to the suit, the Court, instead of proceeding in the manner above pointed out, may, if the witness be a plaintiff, appellant or petitioner, dismiss the complaint, appeal or petition, with costs against such party, or if such party be a defendant or respondent, may hear, and decide the case against such defendant or respondent *ex-parte*. If any such complaint, appeal or petition shall be dismissed for such cause, the complainant, or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

XXVI. Any person, whether a party to the suit or not, to whom a summons to attend, and give evidence or produce a document, shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence, or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings under this Act, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all damages which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action.

XXVII. If a person, whether a party to a suit or not, for whose attendance either to give evidence or produce a document a summons shall be issued, cannot, after diligent search, to be

certified by a return of the nazir, be found, the Court upon proof that the evidence of such witness, or the production of the document is material, and that the witness absconds, or keeps out of the way to avoid being served with a summons, and that he could not, after diligent search, be found or served with the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document at a time and place to be named therein, to be affixed, in the presence, and with the attestation of two respectable householders in some conspicuous place, upon or near to his house or place of abode, and if such person shall not attend at the time and place to be named in such proclamation, and it be proved to the satisfaction of the Court that the witness cannot be found, his property, real and personal, to such amount as the Court shall deem reasonable, (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent,) shall be liable, under an order of the Court, to attachment and sale. Provided always, that when the order for attachment and sale shall have been issued by any Court subordinate to the Court of Sudder Dewanny Adawlut, a summary appeal shall lie within one month from the date of the order of the subordinate Court to the Court to which its orders are generally appealable; and that the Rules for the time being in force in regard to sales made in execution of decrees, as to the mode and period of attachment and the place or manner of sale, and as to claims of third parties to property attached and notified for sale, shall be held applicable to such sales.

XXVIII. *Clause* 1.—The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment shall not proceed to sale of the property, but shall order the same to be released from attachment if the witness shall appear and satisfy the Court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein. Upon the appearance of such witness, the Court shall make such order in regard to the costs of the attachment as it shall deem fit. If the witness appearing shall fail to satisfy the Court that he did not abscond, or keep out of the way to avoid service of a sum-

mons, and that he had not such notice of the proclamation as aforesaid, it shall be in the discretion of the Court to order the property attached or any part thereof to be forfeited and sold for the purpose of satisfying all costs incurred in consequence of such default, absconding, or keeping out of the way, and such fine not exceeding the amount in dispute in the suit as the Court may deem fit to impose upon the witness having regard to all the circumstances of the case, and the condition in life of the witness, or the Court may order the property to be released from attachment upon payment of such costs and fine as aforesaid.

Clause 2.—An order made in pursuance of this Section shall be subject to appeal in the same manner and within the same period, as an appeal against an order for attachment and sale under the last preceding Section of this Act.

XXIX. All orders as to fines, or the levying thereof, or as to imprisonment under this Act, shall be subject to a similar appeal within one month from the date of the order.

XXX. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness, who may neglect, or refuse to attend, or who shall abscond, or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case; provided that when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence, or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence, or produce, the document required, and that where a summons shall have been issued for the attendance of a defendant or respondent to give evidence, or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.

XXXI. On the day appointed for the hearing, the evidence of the attending witnesses shall be taken orally in open Court,

in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer if there shall appear any special reason for doing so, or any party, or his vakeel, shall require it. If any question put to a witness be objected to by either of the parties, or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanor of any witness whilst under examination.

XXXII. In cases where the evidence is needed of females, who according to the custom of the country, ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the custom and usage of the country, and with liberty to the parties or their vakeels, to cross examine, any thing in Section V. Act VII. 1841, to the contrary notwithstanding.

XXXIII. On or before the day appointed for trial, the Court may, for any sufficient reason, such as the unavoidable absence of any material witness, or for other good cause, on the applica-

tion of either party, postpone the hearing to another day, to be named, on such terms as to the payment to the opposite party of his costs occasioned by the postponement, and otherwise as to the Court shall seem reasonable. In such case notice in writing shall be given to each of the witnesses to attend and give evidence, or to produce a document on the substituted day, instead of the day mentioned in their summonses, if there be time to do so and the Judge shall so order. The notice shall be served in the same manner as a summons. The service of such notice shall have the same effect as if the substituted day had been originally named in such summons as the day for the appearance in Court to give evidence or produce a document, and all the provisions in this Act relating to summonses to give evidence or produce documents, shall extend to such notices in the same manner as if such notices had been expressly mentioned in such provisions. If the application be too late to serve such notices, the Court may order that the examination of any witness who may be present, or shall attend in pursuance of a summons, shall be proceeded with, and that the further hearing of the case, after the examination of such witness, shall alone be postponed.

XXXIV. Unless the hearing be postponed in manner aforesaid, it shall commence on the day appointed, or as soon afterwards as the business which may be pending before the Court and may be entitled to priority will allow, and the recording of evidence on the trial of any suit when begun under the rules above enacted, shall, unless there be good and sufficient reason to the contrary, (which reason shall be recorded) continue on the same day, or on consecutive business days, until the whole of the evidence of the witnesses present shall be heard. The parties or such of them as desire it shall then be heard either by themselves or their pleaders orally on the merits of the case as regards the issues both of fact and law, and after considering the argument and evidence, the Judge shall record his judgment under Act XII. 1843.

XXXV. If the Court, after the evidence of all the witnesses shall have been heard, and before hearing the pleaders or recording the judgment, shall think it necessary for the ends of justice to inspect any document, or to examine any party to the suit,

or any other person whose evidence may appear to be material, the Court, of its own accord, may cause such party or person to be summoned to attend as a witness, to give evidence, or to produce such document, if in his possession, on a day to be appointed, and may examine such party or person as a witness in open Court or in such other manner as the Court may direct, upon any question which the party or witness may be bound to answer and the Court may think necessary, and may also compel the production of any document mentioned in such summons, which any such person may have in his possession or power, and be bound to produce. Any witness so called shall be subject to the cross-examination of either party, or his vakeel. If such person, whether a party or not, shall be a female, who, according to the custom of the country, ought not to be compelled to appear as a witness in a Court of Justice, the Court may order such person to be examined in the manner provided by Section XXXII. of this Act, upon such questions as it may direct. The Commissioner or other person authorized to take the examination in such case may put such further questions as in his judgment may be necessary, or may arise out of the answers to be given to the questions directed by the Court.

XXXVI. The Judge may cause public notice to be given in Court, either before or during the examination of any witness, requiring all or any other witnesses, whether parties or not who have been summoned or inserted in the list of witnesses in the same cause, to leave and to remain out of Court until further order. Any witness in a cause who without lawful excuse shall wilfully remain in, or come into Court, contrary to such notice, shall be punishable in the same manner as for a contempt of Court in open Court. Whenever such notice shall be given, the consequence of disobedience thereto shall be publicly explained at the time of giving the notice.

XXXVII. Any party to a suit, appeal or proceeding who may be examined as a witness therein, shall, except as otherwise provided by this Act, be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.

XXXVIII. The words "witness" and "witnesses" in Act VII. 1841, shall respectively include any party or parties to a suit, and the said Act shall be read as if the words "or party" "or parties" had been used in such Act, in conjunction with the words "witness" or "witnesses" respectively. Provided that the deposition of a party taken under the provisions of this Section at the instance of any opposite party may be read in evidence by, or on behalf of, such last-mentioned party, without the proof required by Section V. of the said Act. Provided also, that no deposition of any party taken under the provisions of this Section shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion, or any reference to the suit, at so great a distance from the Court, that, in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence, in which last-mentioned case it shall be discretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.

XXXIX. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.

XL. If any party to any such suit as aforesaid shall, in any pleading or statement, refer to any document in his possession or power, as a material proof or document in support of his claim or defence, he shall file such document with the pleading or statement, unless the Court shall, for good and sufficient cause, extend the time for filing the same; and any adverse party shall be entitled, by himself, or his vakeel, to inspect and take a copy of the document.

XLI. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company and shall include any Judge or other officer or person mentioned

in Section II. of this Act; the word "Judge" shall be understood to mean the chief judicial authority presiding in any such Court, and shall include any officer or person having, by law, or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal or proceeding mentioned in Section II.; the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versa*.

XLII. This Act shall extend only to Civil proceedings, and to the Presidency of Fort William in Bengal, and shall not include any of Her Majesty's Supreme Courts of Judicature.

XLIII. The provisions of Sections IX. X. and XI. of this Act shall not extend to the Zillah of Chittagong or Sylhet.

XLIV. This Act shall come into operation on the 1st day of January 1854.

ATTORNIES AND PLEADERS.

ACT No. XX. OF 1853.

[*Passed on the 8th December*, 1853.

1. *Repeals Beng. Reg.* 27, 1814, *s.* 16 *and Mad. Reg.* 14, 1816, *s.* 16.

2. *Relieves Pleader from the obligation of attending in Court, except when business in which he is engaged may come on.*

3. *Extends to Attornies of Supreme Courts the rights of pleading in the Sudder Courts as Barristers.*

4. *Exempts Attornies in E. I. Co.'s Courts from specified part of Act* 4, 1846.

An Act to amend the Law relating to Pleaders in the Courts of the East India Company.

Whereas it is expedient to amend the law relating to Pleaders in the Courts of the East India Company, It is enacted as follows:

I. Section XVI. Regulation XXVII. of 1814 of the Bengal Code, and Section XVI. Regulation XIV. of 1816 of the Madras Code, are hereby repealed.

II. No Pleader shall be bound to attend in any of the Courts of the East India Company, on any day fixed for the transaction of Civil business, or to notify to the Court his inability to attend, unless he shall be employed in some cause or business

which according to the practice of the Court, may be heard or transacted therein on that day, anything in any law or regulation to the contrary notwithstanding.

III. Every Attorney on the roll of any Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sudder Courts of the East India Company, subject however to all the rules for the time being in force in the said Sudder Courts respectively, applicable to Barristers pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter.

IV. That part of Section IV. Act No. I. of 1846, which provides that no person shall be admitted a Pleader in any of the Courts of the East India Company, unless he have obtained a Certificate in such manner as shall be directed by the Sudder Courts that he is of good character and duly qualified for the Office, shall not extend to Barristers or Attornies of any of the said Supreme Courts; but every such Barrister and Attorney shall be entitled as such to plead in any of the Courts of the East India Company subordinate to the Sudder Courts, subject to all the rules in force in the said subordinate Courts respectively applicable to Pleaders therein, so far as such rules relate to the language in which the Court is to be addressed or to any other matter connected with pleading therein.

THE GOVERNOR GENERAL.

ACT No. XXI. OF 1853.

[*Passed on the 9th December*, 1853.

1. *Empowers the G. G. to carry on all the powers of Government away from Council, except such as the Council may reserve for itself and except the power of making Laws*

2. *Act to be in force for* 2 *Months.*

An Act for providing for the exercise of certain Powers by the Governor General during his absence from the Council of India.

Whereas it is expedient that the Governor General should visit the Province of Pegu and other Eastern Provinces unaccompanied by any Member of the Council of India, It is enacted as follows:

I. During the absence of the Governor General from the Council of India, it shall be lawful for the Governor General alone to exercise all the powers which may be exercised by the Governor General in Council, except such powers as may by a Resolution of the Governor General in Council be exercised by the President in Council during the absence of the Governor General and except the power of making Laws and Regulations.

II. This Act shall commence from the day on which it shall be notified by an order published in the *Calcutta Gazette* that the Governor General has quitted Calcutta for the purpose of so proceeding as aforesaid, and shall not continue in force for a longer period than two calendar months from the time of the passing of this Act.

MADRAS.—LAND FOR PUBLIC WORKS.

ACT No. I. OF 1854.

[*Passed on the 3rd February*, 1854.

1. *Extends Act* 20, 1852, *in a modified manner to Land in Madras.*

2. *Extends to Supreme Court as to Land in Madras, powers possessed by Zillah Court, out of it.*

3. *Deposits on account of land, placed under same regulations as suitors money in Supreme Court.*

4. *Interest on deposits, to be paid to persons who would have been entitled to the original fund.*

5. *Extends jurisdiction of Madras Small Cause Court to claims of deposits under Rs.* 500.

An Act to amend the law for facilitating the acquisition of land needed for public purposes within the local limits of the jurisdiction of the Supreme Court of Judicature at Madras.

I. The provisions of Act XX. of 1852, as herein modified shall be applicable to all lands situate within the local limits of the jurisdiction of the Supreme Court of Judicature at Madras.

II. The powers given to the Civil Court of the Zillah in Section XIV. of Act No. XX. of 1852 shall, for the purposes of this Act, be exercised by the Supreme Court of Judicature at Madras, either upon motion or petition: and the said Court upon the investigation of any matter under the provisions of this Section may compel the attendance of witnesses, and take their evidence in the same manner as upon a trial of an action at law,

and the said Court upon such motion or petition may award such costs as they may think just.

III. In all cases in which payment of any part of the purchase or compensation money exceeding in amount the sum of five hundred Rupees is held in deposit according to Section XV., Act XX. of 1852 on account of any lands taken for any public purpose under this Act, the Government Securities mentioned in the said Section shall be deposited with the Government Agents at Fort St. George, in the name and with the privity of the Accountant General of Her Majesty's Supreme Court of Judicature at Fort St. George to be placed by him to the credit of the persons interested in such lands, describing them as nearly as may be done according to the course of proceeding in the said Court in matters and causes depending before it in Equity.

IV. The said Securities shall remain in the hands of the Government Agents, and the interest accruing on the Securities shall be, from time to time, received and paid under the order of the said Supreme Court to the person or persons for the time being who would have been entitled to receive the rents and profits of the said lands, if the same had not been taken as aforesaid, until there shall be some person or persons absolutely entitled to receive the principal sum of the monies so reserved, and thereupon the said Government Securities, with all interest then due thereon, shall be transferred and paid to such person or persons under the like order of the said Court, and so long as no person can be found entitled to receive the interest of the said Government Securities, the Government Agent shall continue to receive, and from time to time to invest the accumulation of the interest due thereon in the purchase of other Government Securities, to be held and applied by him on the same trusts as the Securities first purchased.

V. The right to receive payment of all sums not exceeding five hundred Rupees which shall be held in deposit under the said Section XV., Act No. XX. of 1852 may be determined by the Madras Court of Small Causes, and the said Court may make an order for the payment thereof, which order shall be a sufficient indemnity to the Government and all persons acting in obedience thereto.

BOMBAY.—PETTY SESSIONS' ASSESSOR.

ACT No. II. OF 1854.

[*Passed on the 3rd February*, 1854.

1. and 2. Abolishes the Office of Assessor to Petty Sessions.

An Act to abolish the Office of Assessor to the Court of Petty Sessions at Bombay.

Whereas it is unnecessary to continue the Office of Assessor to the Court of Petty Sessions at Bombay; It is enacted as follows:

I. So much of Article 2, Title 2, of the Rule, Ordinance and Regulation I. of 1834, passed by the Governor in Council of Bombay, as enacts that the Court of Petty Sessions at Bombay therein-mentioned shall constantly be attended by a Barrister-at-law, as and by way of Assessor to the said Court, such Assessor to be a Justice of the Peace and an advocate of the Supreme Court of Judicature at Bombay, and to be appointed and removeable by the Governor in Council, is hereby repealed.

II. It shall not be necessary for the said Court of Petty Sessions to be attended by any person as or by way of Assessor to the said Court.

NATIVE ARMY.

Repealed by XXIX of 1861

ACT No. III. OF 1854.

[*Passed on the 3rd February*, 1854.

Amends the 38th article of war, by prohibiting the pawning of any medal or decoration for service, &c.

An Act to amend the 38th Article of War for the Native Army.

Whereas it is expedient that any Native Soldier who shall make away with or pawn any medal granted to him for service in the Field, or for general good behaviour, should be punished for such unsoldier-like conduct; It is enacted:

That there shall be added to the 38th Article of War for the Government of the Native Officers and Soldiers in the Military Service of the East India Company, the words following—that

is to say:—"or who shall make away with or pawn any "medal, or decoration, granted to him by order of Her Majesty, "or of the East India Company, or by order of Government, "for service in the Field or for general good conduct."

BOMBAY.--CANTONMENT BAZAARS.

ACT No. IV. OF 1854.

[*Passed on the 3rd February*, 1854.

1. *Superintendent of Bazaars may execute a sentence in the Criminal or Excise branch of his duty without submitting his proceedings to the Commanding Officer, in specified petty cases.*

An Act relating to the execution of Sentences in petty cases by Superintendents of Bazaars in the Presidency of Bombay.

Whereas the rule which prohibits a Superintendent of Bazaars in the Presidency of Bombay from executing any sentence in the Criminal or Excise branches of his duties, until he has submitted his proceedings to the Commanding Officer, and which requires that trials before a Superintendent of Bazaars shall be recorded as usual on Courts Martial, has been found to be productive of unnecessary inconvenience and delay in petty cases, and it is expedient to abolish the rule in such cases; It is hereby enacted as follows:

I. So much of Section XXX. Regulation XXII. 1827 of the Bombay Code, as enacts that the Superintendent of Bazaars shall not execute any sentence in the Criminal or Excise branch of his duties until he has submitted his proceedings to the Commanding Officer, and that his trials shall be recorded in writing as usual on Courts Martial, is hereby repealed so far as it shall relate to any sentence which shall hereafter be passed by any Superintendent of Bazaars by which any fine not exceeding three rupees, or any imprisonment not exceeding three days, shall be ordered.

BENGAL.--BONDED WAREHOUSE ASSOCIATION.

ACT No. V. OF 1854.

[*Passed on the* 10*th February*, 1854.

1. *Repeals ss.* 12, 14, 32, *and* 37, *of Act* 5 *of* 1838.
2. *Business to be managed by six Directors, three to be a quorum.*
3. *Directors to go out of office before annual meeting of May in new election to be made then, and old Directors to be re-eligible.*
4. *Qualification of Director,* 5 *shares in his own right.*
5. *Ordinary General Meeting to be held twice a year, and when; and may declare dividend, but not out of capital.*
6. *Empowers Association to make Bye-laws.*
7. *Corporation may be dissolved after* 5 *years from date of order to that effect, but no such order to be made till after* 14*th March*, 1860.

An Act to amend Act No. V. of 1838, relating to the Bengal Bonded Warehouse Association.

Whereas the Bengal Bonded Warehouse Association are desirous that the provisions of Act No. V. of 1838 should be amended, and it appears reasonable that such amendment should be made; It is enacted as follows:

I. Sections XII., XIV., XXXII. and XXXVII. of the said Act are hereby repealed.

II. The business of the said Association shall be managed by six Directors, three of whom shall form a quorum.

III. The two Directors who are to go out of office by rotation in every year shall go out of office in the month of May, before the holding of the ordinary General Meeting of proprietors directed to be holden in that month, and at such ordinary General Meeting two Directors shall be chosen, and the Directors so going out of office or either of them shall be capable of being re-elected in the same year at such General Meeting.

IV. No person shall be capable of being a Director of the said Association who shall not be a proprietor in his own right of Five shares of the Capital Stock of the said Association.

V. Ordinary General Meetings of the said proprietors shall be held at least twice in every year, that is to say, on the second Wednesday in the month of May, and the second Wednesday in the month of November, and at every such ordinary Meeting the

Directors of the said Association shall present a Report in writing of the state of the affairs of the said Association and a balance sheet; and such General Meeting may declare a dividend out of the profits of the said Association, provided that no dividend shall be made which shall diminish the capital of the said Association.

VI. It shall be lawful for the said Association to make Bye-laws for the Regulation of its own proceedings, which Bye-laws shall be binding only on its own Members and Officers, provided that no such Bye-law shall be valid till it shall have been approved of by one extraordinary General Meeting of proprietors specially convened for that purpose, provided also that no such Bye-law shall be valid till it shall have been confirmed by the Governor of the Presidency of Fort William in Bengal.

VII. At any time after the 14th day of March 1860, it shall be lawful for the Governor General of India in Council by an order in Council to direct that the said Association shall be dissolved at the expiration of five years from the date of such order, and such order shall of itself have the effect of dissolving the said corporation at the expiration of the said space of five years, except for the purposes mentioned in Section XXXIX., Act No. V. of 1838.

SUPREME COURTS.--BENGAL MADRAS AND BOMBAY.--EQUITY PROCEDURE.

ACT No. VI. OF 1854.

[*Passed on the* 10*th February*, 1854.

1, 2 *Prescribes in what style and form Bills in Equity shall be; they shall not contain any interrogatories, but* (2) *plaintiff may file interrogatories afterwards if he requires an answer, and defendant not obliged to answer if interrogatories are not filed*

3. *Regulates the defendant's right as to answering, &c.*

4. *Prescribes the form of the answer.*

5. *Plaintiff may on notice move for such decree as he may think himself entitled to and affidavits may be made on both sides. Such motion not to be where there has been a replication.*

6. *Court may make decree on motion.*

7. *Exceptions for scandal and impertinence discontinued, but scandalous or impertinent matter may be ordered to expunged.*

8. *Court may order defendant to produce documents whether he has answered or not.*

9. *Substitutes interrogatories by defendant for cross bill of discovery, &c. except by order of Court.*

10. *Empowers Court to order plaintiff to produce documents.*

11. *Same formalities as in swearing affidavit, sufficient in swearing pleas, answers, &c.*

12. *Issue to be joined by a replication when decree not moved for; and defendant not answering to be considered a traverse of the plaintiff's case.*

13. *Motion to dismiss bill where no answer required, to be regulated by rules.*

14. *Affidavits to be paragraphed, and paragraphs numbered.*

15. *With consent of all parties, their cases may be verified by affidavit.*

16. *Regulates mode of proof. Evidence generally to be given orally, but Court may order examination on interrogatories, or receive affidavits.*

17. *Further regulates mode of proof. On hearing of suit or of any motion, &c. Court may order oral examination, &c.*

18. *Further regulates mode of proof. Parties may obtain subpœnas for attendance of witnesses, &c.*

19, 20. *Persons making affidavits may be required to attend to be cross examined on them, &c.* (20) *provides for costs in such cases.*

21. *Prescribes rules for the institution of claims by residuary legatees, next of kin, heirs, executors, &c. &c. and in cases to which the rules apply defendan not to object want of parties.*

22. *Cause never to be set down on objection for want of parties.*

23. *In suits concerning matters in which a deceased person not represented is interested, Court may order for his representation.*

24, 25, 26. *Creditors, &c. may without bill, &c. obtain summons on executor or administrator for administration of estate.* (25) *Duplicate for summons to be filed.* (26) *Same procedure to be pursued for obtaining administration of Hindoo and Mahomedan estates.*

27. *In suits for foreclosure Court may order sale, &c.*

28. *Suits not to be dismissed for misjoinder of parties as plaintiffs.*

29. *Suit not to be open to objection on ground that merely declaratory decree is sought, &c.*

30. *Court may adjudicate on matters in which others besides the parties to the suit have an interest and though connected with other matters not before the Court.*

31. *Regulates mode of receiving suits.*

32. *Dispenses with supplemental bill in case of new matter arising after filing of bill and regulates mode of bringing new matter before the Court.*

33. *Empowers the Court to direct in what manner accounts shall be taken.*

34. *Empowers the Court to order the sale of real estate, if necessary, for purposes of suit.*

35. *Empowers the Court to allow to parties interested the free enjoyment of any portion of property over and above what is necessary for the objects of the suit.*

36. *On application for injunctions or receiver, the answer to be regarded merely as an affidavit, and affidavits may be read in opposition thereto.*

37. *In case of departure from regular course of practice, Court may allow correction of proceedings.*

38. *The Court may determine questions of legal right or title arising, without referring it to common law side.*

39. *Empowers Court to refer to judge, matters not referred to master, or to decide without any reference.*

40. *Report of master deemed to be confirmed if no exceptions filed within 14 days,*

41. *No reference to Court or to master after exceptions necessary, but Court or Judge may decide.*

42. *Judge in chambers may decide on application for time to plead, &c. leave to amend, &c. for production of documents, &c. the conduct of suits, guardianship, management of property, &c.*

43. *Empowers the Court to make general rules, &c.*

44 *Interpretation clause*

45 *Act to take effect from 1st May, 1854.*

An Act to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras, and Bombay.

Whereas it is expedient to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras and Bombay respectively; It is enacted as follows:

I. Every bill of complaint to be filed in any of the said Courts after the time hereinafter appointed for the commencement of this Act, shall contain, as concisely as may be, a narrative of the material facts, matters and circumstances on which the plaintiff relies, such narrative being divided into paragraphs numbered consecutively, and each paragraph containing, as nearly as may be, a separate and distinct statement or allegation, and shall pray specifically for the relief which the plaintiff may conceive himself entitled to, and also for general relief, but such bill of complaint shall not contain any interrogatories for the examination of the defendant.

II. Within a time, to be limited by the rules or orders to be made by the Judges of the said Courts respectively in that behalf, the plaintiff in any suit in any of the said Courts commenced by bill may, if he requires an answer from any defendant thereto, file in the sworn clerk's or other proper office of the said Court,

interrogatories for the examination of the defendant or defendants, or such of them from whom he shall require an answer, and deliver to the defendant or defendants so required to answer, or to his or their solicitor, a copy of such interrogatories, or of such of them as shall be applicable to the particular defendant or defendants, and no defendant shall be called upon or required to put in any answer to a bill unless interrogatories shall have been so filed, and a copy thereof delivered to him or his solicitor, within the time so to be limited, or within such further time as the Court shall think fit to direct.

III. Whether the plaintiff in any suit in any of the said Courts shall or shall not require any answer from the defendant, or any one or more of the defendants to the bill, such defendant or defendants may, without leave of the Court, put in a plea, answer, or demurrer to the plaintiff's bill within the time now allowed to the defendant for demurring alone to a bill, or within such other time as shall be fixed by any rules or orders to be framed by the Judges of the said Courts respectively in that behalf; but after that time a defendant or defendants not required to answer the plaintiff's bill shall not be at liberty to put in a plea, answer, or demurrer to the bill, without leave of the Court; provided that the power of the Court to grant further time for pleading, answering, or demurring to any bill, upon the application of any defendant or defendants thereto, whether required to answer the bill or not, shall remain in full force, and shall not be in any wise prejudiced or affected; provided also that if the Court shall grant any further time to any defendant for pleading, answering, or demurring to the bill, the plaintiff's right to move for a decree under the provisions hereinafter contained shall in the mean time be suspended.

IV. The answer of the defendant to any bill of complaint in any of the said Courts may contain not only the answer of the defendant to the interrogatories so filed as aforesaid, but such statements material to the case as the defendant may think it necessary or advisable to set forth therein, and such answer shall also be divided into paragraphs, numbered consecutively, each paragraph containing, as nearly as may be, a separate and distinct statement or allegation.

V. The plantiff in any suit commenced by bill shall be at

liberty, at any time after the time allowed to the defendant for answering the same shall have expired (but before replication), to move the Court, upon such notice as shall in that behalf be prescribed by any rule or order to be made by the Judges of the said Courts respectively, for such decree or decretal order as he may think himself entitled to, and the plaintiff and defendant respectively shall be at liberty to file affidavits in support of and in opposition to the motion so to be made, and to use the same on the hearing of such motion; and if such motion shall be made after an answer filed in the cause the answer shall, for the purposes of the motion, be treated as an affidavit.

VI. Upon any such motion for a decree or decretal order, it shall be discretionary with the Court to grant or refuse the motion, or to make an order giving such directions for or with respect to the further prosecution of the suit as the circumstances of the case may require, and to make such order as to costs as it may think right.

VII. The practice of excepting to bills, answers and other proceedings in the said Courts for scandal or impertinence, shall be, and the same is hereby abolished; provided that it shall be lawful for any of the said Courts or for a Judge thereof to order any scandalous or impertinent matter introduced into any proceeding in the Court to be expunged, and any costs occasioned thereby, together with the costs of any application for the purpose to be paid by the party introducing the same.

VIII. It shall be lawful for the Court, upon the application of the plaintiff in any suit in any of the said Courts, whether commenced by bill or by claim, and as to a suit commenced by bill, whether the defendant may or may not have been required to answer the bill, or may or may not have been interrogated as to the possession of documents, to make an order for the production by any defendant, upon oath, of such of the documents in his possession or power relating to matters in question in the suit as the Court shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

IX. It shall be lawful for any defendant in any suit, whether commenced by bill or by claim, but in suits commenced by bill which the defendant is required to answer not until after he

shall have put in a sufficient answer to the bill, and without filing any cross bill of discovery, to file, in the sworn clerk's or other proper office of the Court wherein such suit is pending, interrogatories for the examination of the plaitiff, to which shall be prefixed a concise statement of the subjects on which a discovery is sought, and to deliver a copy of such interrogatories to the plaintiff or his solicitor, and such plaintiff shall be bound to answer such interrogatories, in like manner as if the same had been contained in a bill of discovery filed by the defendant against him on the day when such interrogatories shall have been filed, and as if the defendant to such bill of discovery had on the same day duly appeared; and the practice of the Court with reference to excepting to answers for insufficiency, or for scandal, shall extend and be applicable to answers put in to such interrogatories; provided that in determining the materiality or relevancy of any such answer, or of any exception thereto, the Court is to have regard, in suits commenced by bill, to the statement contained in the original bill, and in the answer which may have been put in thereto by the defendant exhibiting such interrogatories for the examination of the plaintiff, and in suits commenced by claim, to the statements therein and in any affidavits which may have been filed either in support thereof or in opposition thereto; provided also that a defendant, if he shall think fit so to do, may by leave of the Court or of a Judge thereof exhibit a cross bill of discovery against the plaintiff, instead of filing interrogatories for his examination.

X. It shall be lawful for the Court, upon the application of any defendant in any suit, whether commenced by bill or by claim, but as to suits commenced by bill where the defendant is required to answer the plaintiff's bill not until after he has put in a full and sufficient answer to the bill, unless the Court shall make any order to the contrary, to make an order for the production by the plaintiff in such suit, on oath, of such of the documents in his possession or power relating to the matters in question in the suit as the Court shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

XI. Every plea, answer, disclaimer, or examination may be

sworn and filed without any further or other formality than is required in the swearing and filing of an affidavit.

XII. In suits commenced in any of the said Courts by bill, where notice of motion for a decree or decretal order shall not have been given, or, having been given, where a decree or decretal order shall not have been made thereon, issue shall be joined by filing a replication, in the form or to the effect of the replication now in use in the said Courts respectively, and where a defendant shall not have been required to answer and shall not have answered the plaintiff's bill he shall be considered to have traversed the case made by the bill.

XIII. Where a defendant to a suit in any of the said Courts commenced by bill shall not have been required to answer the bill, and shall not have answered the same, such defendant shall be at liberty to move to dismiss the bill for want of prosecution at such times and under such circumstances, and subject to such restrictions, as shall be in that behalf prescribed by any rules or orders to be made by the Judges of the said Courts respectively in that behalf.

XIV. Every affidavit to be used in any of the said Courts shall be expressed in the first person and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Provided that nothing herein contained shall preclude the Court or any Judge thereof in any case in which such Court or Judge may think fit so to do, from allowing any affidavit to be used, notwithstanding the same may not be made according to the provisions of this Section.

XV. When any suit commenced in any of the said Courts by bill shall be at issue, the Court or a Judge thereof may upon the application of any of the parties to the suit, and by consent of all the other parties thereto, make an order that the parties shall be at liberty to verify their respective cases by affidavit, and such cases may thereupon be verified accordingly. If any one or more of the parties, who shall not have a sufficient interest in the matters in question to require the evidence to be oral, shall not consent to the making of such order, the Court

or a Judge thereof, may make the same without the consent of such party or parties.

XVI. If no such order shall be made, the evidence to be adduced in the cause after issue joined therein shall be taken orally before the Court, and the attendance of witnesses and the production of documents may be enforced in the manner for the time being in use on the Common Law side of the said Courts respectively; provided that the Court may order any particular witness or witnesses within the jurisdiction of the Court, or any witness or witnesses out of the jurisdiction of the Court, to be examined, upon interrogatories or otherwise, under a commission, and to make such order relating to such examination as the Court may think fit; and provided also that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may by consent of the parties, or by leave of the Court obtained upon notice, be used on the hearing of any cause; such consent, and also the consent required by Section XV. of this Act, may, with the approbation of the Court, be given by or on the part of any married woman, infant or other persons under disability.

XVII. Upon the hearing of any suit depending in any of the said Courts, whether commenced by bill or claim, and also upon the hearing of any motion, petition or other proceeding in any of the said Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness, or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party and of the production of such document or documents to be paid by such of the parties to the suit, or in such manner as it may think fit.

XVIII. Any party in any suit or matter may, by order of the Court or of a Judge thereof, issue a writ of subpœna and testificandum or duces tecum, for the purpose of compelling the attendance of any person before the said Courts, or before a Commissioner or Commissioners at a time and place, to be specified in such subpœna, to give evidence and produce docu-

n[illegible] in support of or in opposition to any claim, motion, petition, [illegible]ther proceeding before the Court; and every person served [illegible]h such subpœna shall be bound to attend in pursuance the[illegible] and to produce documents, and to give evidence, in like m[illegible] and subject to the same rules as a witness subpœnaed t[illegible]end or produce documents upon the trial of any cause in th[illegible]d Court.

XIX. Any pe[illegible] who shall make an affidavit which shall be used or filed by [illegible] party to a suit in any of the said Courts, may, by the order of [illegible] Court or of a Judge thereof, be subjected to oral cross-exa[illegible]ation by or before the Court, or by or before a Commissioner or C[illegible]missioners, and may be subpœnaed to attend for that purpose [illegible]nd to produce any document or documents, at a time and plac[illegible] be specified in the subpœna; and any person so subpœnaed [illegible]all be bound to attend and produce such document or doc[illegible]ents in pursuance of such subpœna, in the same manner an[illegible]bject to the same rules, as a witness subpœnaed to attend and [illegible]ve evidence or produce documents on the trial of a cause, and [illegible] person may be cross-examined and re-examined orally; pro[illegible] that the Court shall always have a discretionary power of act[illegible]pon such evidence as may be before it at the time, and [illegible]king such interim orders as may appear necessary to meet the [illegible]ce of the case.

XX. The costs of the attendance of a[illegible]erson, for the purpose of cross-examination as aforesaid, an[illegible]he said cross-examination and re-examination, shall be pa[illegible] the parties respectively, in like manner as if the person so a[illegible]ling to be cross-examined were the witness of the party cro[illegible]amining, and shall be deemed costs in the cause of s[illegible] parties respectively, unless the Court shall otherwise direct.

XXI. It shall not be competent to any defendant in [illegible] suit in any of the said Courts to take any objection for [illegible]t of parties to such suit, in any case to which the rules hereinafter set forth extend, and such rules shall be deemed and taken as part of the law and practice of the said Courts respectively, and any law or practice of any of the said Courts inconsistent therewith shall be and is hereby abrogated and annulled.

Rule 1st.—Any residuary legatee or next of kin may, without

serving the remaining residuary legatees or next of kin, have a decree for the administration of the personal estate of a deceased person.

Rule 2nd.—Any legatee interested in a legacy charged upon real estate and any person interested in the proceeds of real estate directed to be sold, may, without serving any other legatee or person interested in the proceeds of the estate, have a decree for the administration of the estate of a deceased person.

Rule 3rd.—Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like decree.

Rule 4th.—Any one of several cestuis que trust under any deed or instrument may, without serving any other of such cestuis que trust, have a decree for the execution of the trusts of the deed or instrument.

Rule 5th.—In all cases of suits for the protection of property pending litigation, and in all cases in the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6th.—Any executor, administrator or trustee may obtain a decree against any one legatee, next of kin, or cestui que trust, for the administration of the estate or the execution of the trusts.

Rule 7th.—In all the above cases the Court, if it shall see fit, may require any other person or persons to be made a party or parties to the suit, and may, if it shall see fit, give the conduct of the suit to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8th.—In all the above cases the persons who, according to the present practice of the Court, would be necessary parties to the suit shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may, by an order of Court, have liberty to attend the proceedings under the decree: and any party so served may, within such time as shall in that behalf be prescribed by any

general rule or order to be made by the said Courts respectively in that behalf, apply to the Court to add to the decree.

Rule 9th.—In all suits concerning real or personal estate which is vested in trustees under a will, settlement, or otherwise such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate, and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit, but the Court may upon consideration of the matter on the hearing if it shall so think fit order such persons or any of them to be made parties.

XXII. The practice of setting down a cause merely on an objection for want of parties to the suit shall be abolished.

XXIII. If in any suit or other proceeding before any of the said Courts it shall appear to the Court that any deceased person who was interested in the matters in question has no legal personal representative, it shall be lawful for the Court either to proceed in the absence of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the suit or other proceeding, on such notice to such person or persons, if any, as the Court shall think fit, either specially or generally by public advertisements; and the order so made by the Court, and any orders consequent thereon, shall bind the estate of such deceased person, in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person and such legal personal representative had been a party to the suit or proceeding, and had duly appeared and submitted his rights and interests to the protection of the Court.

XXIV. It shall be lawful for any person claiming to be a creditor, or a specific pecuniary or residuary legatee, or the next of kin, or some or one of the next of kin of a deceased person, to apply for and obtain as of course without bill or claim filed, or any other preliminary proceedings, a summons from a Judge of any of the said Courts, requiring the executor or administrator, as the case may be, of such deceased person, to attend before him at chambers for the purpose of showing

cause why an order for the administration of the personal estate of the deceased should not be granted, and upon proof by affidavit of the due service of such summons, or on the appearance in person, or by his solicitor or counsel, of such executor or administrator, and upon proof by affidavit of such other matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his discretion he shall think fit so to do, to make the usual order for the administration of the estate of the deceased with such variations, if any, as the circumstances of the case may require, and the order so made shall have the force and effect of a decree to the like effect made on the hearing of a cause or claim between the same parties; provided that such Judge shall have full discretionary power to grant or refuse such order, or to give any special directions touching the carriage or execution of such order, and in the case of applications for any such order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or of the classes of claimants, as he may think fit; and if the Judge shall think proper, the carriage of the order may subsequently be given to such party interested, and upon such terms as the Judge may direct.

XXV. A duplicate or copy of such summons shall, previously to the service thereof, be filed in the office of the Registrar or other proper officer of the Court, and no service thereof upon any executor or administrator shall be of any validity unless the copy so served shall be countersigned by such Registrar or other officer as an indication of the filing thereof, and the filing of such summons shall have the same effect with respect to *lis pendens* as the filing of a bill or claim.

XXVI. It shall be lawful for any person claiming to be a creditor of a deceased person, or interested under his will, to apply for and obtain in a summary way, in the manner hereinbefore provided with respect to the personal estate of a deceased person, an order for the administration of the immoveable estate of such deceased person, if a Hindoo or a Mahomedan, or a Parsee; or for the administration of the real estate of any deceased person, not being a Hindoo, or Mahomedan, or a Parsee where the whole of such real estate is by devisee vested in trustees who are by will empowered to sell such real estate, and autho-

rized to give receipts for the rents and profits thereof, and for the produce of the sale of such real estate; and all the provisions hereinbefore contained with respect to the application for such order, in relation to the personal estate of a deceased person and consequent thereon, shall extend and be applicable to applications for such orders as hereinbefore mentioned with respect to immoveable or real estate.

XXVII. It shall be lawful for the Court, in any suit for the foreclosure of the equity of redemption in any mortgaged property, upon the request of the mortgagee or of any subsequent incumbrancer, or of the mortgager, or any person claiming under them respectively, to direct a sale of such property instead of a foreclosure of such equity of redemption on such terms as the Court may think fit to direct, and if the Court shall so think fit without previously determining the priorities of incumbrances, or giving the usual or any time to redeem; provided that if such request shall be made by any subsequent incumbrancer, or by the mortgager, or by any person claiming under them respectively, the Court shall not direct any such sale without the consent of the mortgagee, or the persons claiming under him, unless the party making such request shall deposit in Court a reasonable sum of money, to be fixed by the Court, for the purpose of securing the performance of such terms as the Court may think fit to impose on the party making such request.

XXVIII. No suit in any of the said Courts shall be dismissed by reason only of the misjoinder of persons as plaintiffs therein, but wherever it shall appear to the Court that notwithstanding the conflict of interest in the co-plaintiffs, or the want of interest in some of the plaintiffs, or the existence of some ground of defence affecting some or one of the plaintiffs, the plaintiffs or some or one of them are or is entitled to relief, the Court shall have power to grant such relief and to modify the decree according to the special circumstances of the case, and for that purpose to direct such amendments, if any as may be necessary, and at the hearing, before such amendments are made to treat any one or more of the plaintiffs as if he or they was or were a defendant or defendants in the suit, and the remaining or other plaintiff or plaintiffs was or were the only plaintiff or

plaintiffs on the record; and where there is a misjoineder of plaintiffs and the plaintiff having an interest shall have died leaving a plaintiff on the record without an interest, the Court may, at the hearing of the cause, order the cause to stand revived, as may appear just, and proceed to a decision of the cause if it shall see fit, and to give such directions as to costs or otherwise as may appear just and expedient.

XXIX. No suit in any of the said Courts shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Court to make binding declarations of right without granting consequential relief.

XXX. It shall be lawful for the Court to adjudicate on questions arising between parties notwithstanding that they may be some only of the parties interested in the property respecting which the question may have arisen, or that the property in question is comprised with other property in the same settlement, will, or other instrument, without making the other parties interested in the property respecting which the question may have arisen, or interested under the same settlement, will, or other instrument, parties to the suit, and without requiring the whole trusts and purposes of the settlement, will, or other instrument to be executed under the direction of the Court, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touching which the question or questions may have arisen; provided always, that if the Court shall be of opinion that the application is fraudulent or collusive, or for some other reason ought not to be entertained, it shall have power to refuse to make the order prayed.

XXXI. Upon any suit in any of the said Courts becoming abated by death, marriage or otherwise, or defective by reason of some change or transmission of interest or liability, it shall not be necessary to exhibit any bill of revivor or supplemental bill in order to obtain the usual order to revive such suit or the usual or necessary decree or order to carry on the proceedings; but an order to the effect of the usual order to revive, or of the usual supplemental decree, may be obtained as of course, upon a suggestion of the abatement of such suit or of the same having

become defective, and of the change or transmission of interest or liability; and an order so obtained when served upon the party or parties who according to the present practice of the Court, would be defendant or defendants to the bill or revivor or supplemental bill, shall from the time of such service be binding on such party or parties in the same manner in every respect as if such order had been regularly obtained according to the existing practice of the Court, and such party or parties shall thenceforth become a party or parties to the suit, and shall be bound to enter an appearance thereto in the office of the Registrar or other officer of the Court within such time and in like manner as if he or they had been duly served with process to appear to a bill of a revivor of supplemental bill filed against him or them; provided that it shall be open to the party or parties so served, within such time after service as shall be in that behalf prescribed by any rule or order to be made by the Judges of the said Courts respectively to apply to the Court by motion or petition to discharge such order on any ground which would have been open to him or them on a bill of revivor or supplemental bill, stating the previous proceedings in the suit and the alleged change or transmission of interest or liability, and praying the usual relief consequent thereon provided also, that if any party so served shall be under any disability, other than coverture, such order shall be of no force or effect as against such party until a guardian or guardians *ad litem* shall have been duly appointed for such party, and such time shall have elapsed thereafter as shall be prescribed by any rule or order to be made by the Judges of the said Courts respectively in that behalf.

XXXII. It shall not be necessary to exhibit any supplemental bill in any of the said Courts for the purpose only of stating or putting in issue facts or circumstances which may have occurred after the institution of any suit; but such facts or circumstances may be introduced by way of amendment into the original bill of complaint in the suit, if the cause is otherwise in such a state as to allow of an amendment being made in the bill, and if not the plaintiff shall be at liberty to state such facts or circumstances on the record, in such manner and subject to such rules and regulations, with respect to the proof thereof, and the affording

to the defendant leave and opportunity of answering and meeting the same, as shall in that behalf be prescribed, by any rule or order to be made by the Judges of the said Courts respectively.

XXXIII. It shall be lawful for the Court in any case where any account is required to be taken, to give such special directions, if any, as it may think fit, with respect to the mode in which the account should be taken or vouched, and such special directions may be given either by the decree or order directing such account, or by any subsequent order or orders, upon its appearing to the Court that the circumstances of the case are such as to require such special directions, and particularly it shall be lawful for the Court, in cases where it shall think fit so to do to direct that in taking the account, the books of account in which the accounts required to be taken have been kept, or any of them, shall be taken as *primâ facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.

XXXIV. If after a suit shall have been insittuted in any of the said Courts in relation to any real estate it shall appear to the Court that it will be necessary or expedient that the said real estate, or any part thereof should be sold for the purposes of such suit it shall be lawful for the said Court to direct the same to be sold at any time after the institution thereof, and such sale shall be as valid to all intents and purposes as if directed to be made by a decree or decretal order on the hearing of such cause; and any party to the suit in possession of such estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser or such other person as the Court shall direct.

XXXV. Where any real or immoveable or any personal property shall form the subject of any proceedings in any of the said Courts, and the Court shall be satisfied that the same will be more than sufficient to answer all the claims thereon, which ought to be provided for in such suit, it shall be lawful for the said Court, at any time after the commencement of such proceedings, to allow to the parties interested therein, or any one or more of them, the whole or part of the annual income of such real or immoveable property, or a part of such personal property, or a part or the whole of the income thereof, up to such time as

the said Court shall direct, and for that purpose to make such orders as may appear to the said Court necessary or expedient, and from time to time to alter the same.

XXXVI. Upon application, by motion or petition to any of the said Courts in any suit depending therein for an injunction or for a receiver, or to dissolve an injunction or discharge an order appointing a receiver, the answer of the defendant shall, for the purpose of evidence on such motion or petition, be regarded merely as an affidavit of the defendant, and affidavits may be received and read in opposition thereto.

XXXVII. In case any of the directions herein contained with respect to the practice and course of proceedings in any of the said Courts shall, by mistake of parties, fail to be followed in any suit or proceeding in any of the said Courts, it shall be lawful for the Court, if it shall think fit upon payment of such costs as such Court shall direct, to make such order giving effect to and rectifying such proceedings as may be justified by the merits of the case.

XXXVIII In cases where, according to the present practice of the said Courts, they decline to grant equitable relief until the legal title or right of the party or parties seeking such relief shall have been established in a proceeding at law, any of the said Courts, sitting as a Court of Equity, may itself determine such title or right without requiring the parties to proceed at law to establish the same.

XXXIX. It shall be lawful for any of the said Courts in any case in which it shall think fit so to do to refer to a Judge of the Court any matters now usually referred to the Master; and also for any of the said Courts to hear and investigate either in Court or in Chambers any such matters, and to decide any case without a reference either to a Judge or to a Master; and all the powers, authority and jurisdiction given to or vested in the Masters of the said Courts respectively by any Act, law, or practice shall be deemed to have been given to or vested in any of the Judges of the said Courts respectively as well as to or in the said Masters.

XL. If exceptions to the report of a Judge or Master of any of the said Courts be not filed within fourteen days after the date of the report, it shall not be necessary to obtain any

order of the Court for the confirmation of such report; but such report shall be deemed to be confirmed from and after the expiration of such fourteen days.

XLI. If any exception to the Report or Certificate of a Judge or Master be allowed by the Court it shall not be necessary to refer the case back to the Judge or Master; but the Court may, if it think fit so to do, hear and investigate in Court or in Chambers any matter which it may be necessary to decide in consequence of the allowance of such exception, and to decide the case without any further reference to a Judge or to the Master.

XLII. Any of the following matters may be disposed of by a Judge of any of the said Courts respectively while sitting in Chambers, videlicet, applications for time to plead, answer, or demur, for leave to amend bills or claims for the production of documents, also applications relating to the conduct of suits or matters, and as to the guardianship and maintenance of infants, matters connected with the management of property, and such other matters as any Judge shall from time to time see fit, or as the Court shall by any general rule or order direct. Provided that any order of a Judge sitting in Chambers may be set aside or altered by the Court upon such terms as the Court shall think fit.

XLIII. The Judges of the said Courts respectively may, from time to time, make General Rules and orders for carrying the purposes of this Act into effect, for regulating the times and form and mode of proceeding, in Court and in Chambers and in the offices of the Masters of the said Courts respectively, for abolishing common injunctions in any case where the practice exists, and generally for regulating the practice of the said Court, in respect of the matters to which this Act relates; for fixing and regulating the fees and allowances to all officers of the said Court and solicitors thereof, and, so far as may be found expedient, for altering the course of proceeding hereinbefore prescribed in respect to the matters to which this Act relates or any of them; and such Rules and Orders may, from time to time, be rescinded or altered by the like authority, and all such Rules and Orders shall be subject to be confirmed or disallowed by the Governor General of India in Council, and

to be altered or rescinded by Her Majesty; her heirs or successors in Council, in the same manner as the like Rules and Orders would have been, if made by the said Courts respectively under their general or statutory power of making Rules.

XLIV. This Act shall extend to suits and proceedings on the Equity side only of the said Supreme Courts: and in the constructions of this Act the words "Bill of Complaint" shall mean and include "Information," and the word "Affidavit" shall mean and include "Affirmation" in cases where affirmation is allowed.

XLV. This Act shall commence and take effect from and after the 1st day of May 1854. Provided that it shall be lawful for the Judges of the said Courts respectively to make and issue any such Rules or Orders as aforesaid at any time after the passing of this Act, but the same shall not take effect before the time appointed for the commencement of this Act.

So much of this act as relates to warrants issued otherwise than under the provisions of the said act is repealed by XVII of '62

FUGITIVE FOREIGN OFFENDERS.

ACT No. VII. OF 1854.

[*Passed on the 17th February*, 1854.

1. *On the requisition of any British or Foreign authority to any authority in British India for the delivery up to justice of any person accused of any heinous offence, Government may order an inquiry into the truth of the charge, &c.*

2. *Directs what the order for an inquiry shall state.*

3. *Production of the order shall give jurisdiction to any Magistrate.*

4. *Empowers Magistrates to issue a warrant for the apprehension of the party charged.*

5. *Warrants issued under this Act may be executed in any Zillah, being previously endorsed by a Magistrate for execution.*

6. *A Magistrate who endorses a warrant which has been illegally issued shall not be responsible for the illegality, &c.*

7, 8. *Directs the proceeding to be taken on apprehension of the offender if offence was committed in British India; and* (8) *the proceeding if offence was committed out of British India.*

9. *Directs the course of proceeding when the accused is arrested and taken before a Magistrate.*

10. *Directs mode of proceeding where the accused has fled after a conviction of the offence with which he is charged.*

11. *Empowers Magistrate before whom the accused is brought to send him to another Zillah.*

12. *Government may direct that depositions on which the requisition is made shall be received as evidence of the guilt of the party accused.*

13. *Directs the Magistrate to report to Government the committal of the accused.*

14. *Empowers the Government to act as it may think fit on the report aforesaid.*

15. *Directs the mode of proceeding in case of the person arrested being ordered to be delivered up.*

16. *Empowers Magistrates to issue the necessary orders and warrants to carry out the orders of Government.*

17. *Provides for fresh arrest of person who has escaped.*

18. *Warrants issued in any part of the British empire for arrest of person accused of heinous offence, may be executed without order of Government on proof of the genuineness of the warrant.*

19. *Empowers Magistrates in case of certain heinous offences to arrest the accused without any order of Government.*

20. *Provides for release of persons imprisoned under this Act, if not proceeded against within two calendar months after committal.*

21, 22 *Defines what offences shall be deemed heinous.*

23. *Provides for performance of obligation under treaty to deliver up offenders to Foreign Governments when case not within this Act.*

24. *Repeals Bombay ss. 5, 6, 7 of Reg. 11, 1827.*

25. *Interpretation Clause.*

An Act for the apprehension within the territories under the Government of the East India Company, of persons charged with the Commission of heinous offences beyond the limits of the said territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the Jurisdiction of the authorities issuing them.

Whereas it is expedient to provide for apprehending and delivering up to justice persons whether subjects of the British or of any Foreign Government who shall take refuge or be found in any part of the territories under the Government of the East India Company and shall be charged with having been guilty of heinous offences in any part of the dominions of Her Majesty or in the territories of any Foreign Prince or State; to facilitate the execution in any part of the territories under the Government of the East India Company of warrants issued by competent Officers in any other parts thereof; and to enable the Government of any Presidency or place within such last mentioned territories to carry out treaties entered into by or on behalf of

Her Majesty, or the East India Company with any Foreign Prince or State; It is enacted as follows:

I. If requisition be made by or by the authority of the person or persons for the time being, administering the executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British territories in India to deliver up to Justice any person accused of having been guilty of any heinous offence in any part of Her Majesty's dominions, subject to the Government making the requisition, and who shall be or shall be supposed to be, in any part of the British territories in India, subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or by any duly authorized Minister or Officer thereof in respect of a person accused of having been guilty of any heinous offence in any part of the territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made if it shall see fit so to do to issue an order in writing for inquiry into the truth of the charge; and such order shall be sufficient proof of the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.

II. The order shall be signed by one of the Secretaries to the Government, it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government, it shall signify that the requisition has been made, shall state the nature of the offence charged, the name or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary, and it shall require the Magistrates and Justices to whom it shall be directed or any of them to inquire into the truth of the charge, and to proceed in pursuance of this Act.

III. Upon the production of the order to any such Magistrate or Justice of the Peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.

IV. If the evidence adduced shall in the judgment of the Magistrate or Justice of the Peace, be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the ap-

prehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum stating that the warrant is issued under this Act, and if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:

This warrant is issued under Act No. VII. of 1854, and is issued under an order of the Government of

V. The warrant of any Magistrate or Justice of the Peace having jurisdiction in any part of the territories under the Government of the East India Company for the arrest of any person charged with having committed any offence whether such warrant be issued under the provisions of this Act or not may be executed within the jurisdiction of any other Magistrate or Justice of the Peace having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or Justice of the Peace, within whose jurisdiction it may be executed, previously endorsed thereon, and which endorsement may be to the following effect:

To the Nazir [*or other Officer as the case may be*] *of the Zillah of*

"This warrant may be executed in the zillah or district of " (describing the zillah or district of the indorsing Magistrate or Justice of the Peace) by any of the Officers to whom the same is directed or by [describing by his name of Office the Officer, to whom a similar warrant, issued by the indorsing Magistrate or Justice of the Peace, would be directed.]

VI. The Magistrate indorsing a warrant in pursuance of the Provisions of Section V. of this Act, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant; but any Magistrate illegally or improperly issuing the same, shall be liable for an arrest in pursuance of the indorsement in the same manner and to the same extent only as if the warrant had been executed within his own jurisdiction.

VII. Upon the apprehension of the supposed offender, if the

offence be alleged to have been committed in any part of the territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the Officer be authorised to take bail or security, and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace, of the zillah or district in which he shall be arrested. The Magistrate or Justice of the Peace before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own jurisdiction. If after making as full an enquiry into all the circumstances of the case as the evidence obtainable by the Magistrate or Justice of the Peace within the territories under the Government of the East India Company will enable him to make the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which in the judgment of the Magistrate or Justice of the Peace, shall be fit for receiving the prisoner, or if there be no such place, to the gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government; if after making such inquiry the circumstances shall not in the judgment of the Magistrate or Justice of the Peace be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged.

VIII. If the offence charged be one committed out of the British territories in India, which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may proceed accordingly and may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the

accused before the Magistrate or Justice of the Peace for the time being of the zillah or district in which the recognizance shall be taken on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace for the time being shall from time to time appoint.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who issued the warrant, or a Magistrate or Justice of the Peace for the time being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the Magistrate or Justice of the Peace before whom such person shall be carried, be forwarded to such Magistrate or Justice of the Peace; and if the warrant be issued under an order of Government, and executed in a Presidency or place not under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition, and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last mentioned Government shall have the same powers as the Government who made the order.

X. If the person accused of the offence mentioned in any such order of Government be proved to have been convicted and sentenced for the offence charged by a Court of Justice in any part of Her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution; the Magistrate or Justice of the Peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused and he may be arrested and committed in manner aforesaid without further proof, unless such person shall prove that the conviction or sentence has been reversed or annulled.

XI. If it appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories not under the Government of the East India Company, that particular circum-

stances exist which render it advisable that the case should be investigated by the Magistrate or Justice of the Peace of a zillah or district nearer to such territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such Magistrate or Justice of the Peace to proceed with the case himself, or to send the case to be investigated by the Magistrate or Justice of the Peace of any other district to be named by the Government. In the latter case the prisoner shall be sent, or if the offence be bailable shall give bail to appear before such last mentioned Magistrate or Justice of the Peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such Magistrate or Justice of the Peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof.

XII. The Government by whom any order under Section I. of this Act shall be made, may, if they think fit so to do, direct that copies of any depositions or exhibits which shall have been laid before them and shall have been certified to their satisfaction to be true copies of depositions or exhibits made or produced before a competent judicial Officer of the territories in which the offence is alleged to have been committed, may be received in evidence of the criminality of the person accused and such direction shall be sufficient authority for receiving the same in evidence.

XIII. The Magistrate or Justice of the Peace, after committing the accused or holding him to bail as aforesaid, for any offence committed out of the territories under the Government of the East India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case. He shall also forward with such report a copy of all depositions and documents used before him.

XIV. Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the Secretary to the Government, order the accused either to be discharged or to be held to bail to appear in such Court or place and at such time or times as the Government may think fit, or to be delivered up to some person authorized by the Government or Officer making the requisition, to receive and take charge of him.

In cases falling within the provisions of Act I. of 1849, the Government may order the person accused to be tried under that Act.

XV. If ordered to be delivered up, the person to whom the accused shall be ordered to be delivered shall not have the custody or charge of him so long as he shall remain in any part of the territories under the Government of the East India Company, but the accused shall be conveyed in custody through such last mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another, and as soon as he shall have been conveyed to the frontiers of the territories under the Government of the East India Company, he shall be delivered over to some person authorized by the Government making the requisition to receive and take charge of him. If no such person shall attend to receive the prisoner, the latter shall be taken before the nearest Magistrate, who may order him to be discharged out of custody, and may provide him with such means of returning to the place where he was apprehended, or so near thereto as he may desire as such Magistrate may think necessary and suitable to his station in life.

XVI. Any Magistrate or Justice of the Peace acting under the provisions of this Act, shall issue all necessary warrants, orders and directions for carrying this Act, and also any order made under it by the Government, into effect, under his signature and seal, or seal of office, if he shall have a seal of office, and all Magistrates and Officers acting in pursuance of this Act, shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and in cases where the accused may have been held to bail, the Magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and if such bail-bond shall not be renewed accordingly, may commit the person accused to prison for such period as may be necessary to carry such order into effect.

XVII. In case any person arrested under this Act shall escape out of custody, he may be re-taken in any part of the territories under the Government of the East India Company, in

the same manner as if he had escaped from custody under process for an offence committed in that part of such territories, in which he shall be found.

XVIII. If a warrant be issued in any part of Her Majesty's dominions not under the Government of the East India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a Court of competent jurisdiction, in any such part of Her Majesty's dominions, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company, may, upon the production of such warrant and proof of the signature of the Officer signing it, and of his authority to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of the person accused, and after his apprehension may proceed to commit, or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require, but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same power as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XIX. In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section XXI. of this Act out of such territories shall, in the judgment of a Magistrate or Justice of the Peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of justice, the person accused may without an order of Government be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found, and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XX. If any person imprisoned under this Act shall not either be delivered up or discharged or brought to trial within two calendar months after his committal, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, to order him to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shown to the Court why such discharge ought not to be ordered. Provided that no such order shall be made until after notice of the application or of the intention to make the same, shall have been given to Government or to the Secretary or one of the Secretaries thereof.

XXI. The words "heinous offence" in this Act shall be deemed to include treason against Her Majesty committed in any part of Her Majesty's dominions; murder, attempting to murder, rape, great personal violence, maiming, dacoity, thuggee, robbery, burglary, knowingly receiving property obtained by dacoity, robbery or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a vilage, house, or town, forgery or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement whether by public officers or other persons, and being an accessory to any of the above-mentioned offences.

XXII. The said words "heinous offence" in this Act shall also be deemed to include any offence, for which by any treaty in force between Her Majesty or the East India Company, and any Foreign Prince or State, Her Majesty or the East India Company, shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the territories under the Government of the East India Company under the provisions of Act No. I. 1849.

XXIII. If by any such treaty, Her Majesty or the East India Company shall be bound to deliver up to any Foreign Prince or State, any person liable to be proceeded against by the laws of such Foreign Prince or State, in any case not expressly provided

for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the Government of the East India Company, in which such person may be found, upon requisition made by or on the part of such Foreign Prince or State, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition, as it shall think fit, and any such order of the Government in writing under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

XXIV. Sections V. VI. and VII., Regulation XI. of 1827, of the Bombay Code, are repealed.

XXV Unless where a contrary intention appears from the context, the word "Government," as used in this Act, shall be deemed to mean and include the Governor General of India in Council or the person or persons administering the executive Government, in any Presidency or place within the British territories in India. The words "British territories in India" shall include any part of the territories under the Government of the East India Company The word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, and also a Justice of the Peace. Words in the singular number are intended to include the plural, and words in the masculine gender to include the feminine.

ADMINISTRATION OF ESTATES.

Repealed by XXVII of 60

ACT No. VIII. OF 1854

[*Passed on the* 17 *February*, 1854.

1. *Declares what shall be the effect of Certificates granted under Act* 21, 1841.

2. *Regulates form of Certificate to enable holder to negociate Government note, &c.*

3, 4. *Empowers Judge, &c. to amend the form of Certificate; on* (4) *security being given.*

An Act to explain and amend Act X. of 1851 and Act XX. of 1841.

Wereas doubts exist as to the limits within which certificates of administration to personal estates granted in pursuance of Section IV. Act X. of 1851, by the British representative accredited to a foreign State or by the British Officer holding the highest executive authority in a district to which Act XX. of 1841 does not extend are operative, and it is expedient to remove such doubts and also to amend the provisions of the said Acts; It is enacted as follows:

I. Every such certificate of administration as aforesaid, which shall hereafter be granted, shall, as regards the public securities of the East India Company, give authority to the person to whom the same shall be granted throughout the territories in the possession and under the Government of the East India Company, and have the same effect throughout the said territories as a certificate granted under the provisions of Act XX. of 1841, as amended by Act X. of 1851, has within the Presidency within which the same is granted.

II. No certificate granted under the provisions of Act XX. of 1841, as amended by Act X. of 1851, or under the provisions of Act X. of 1851, shall empower the person certified to negotiate any Government note or share of a Bank or any share of such security, or to receive any interest or dividend due ther[illegible] or any share of such interest or dividend, unless the G[illegible]ment note or Bank share shall be specified in such certi[illegible]te.

III. Any Judge, British representative or other British Officer authorized to grant a certificate may from tin[illegible]o time extend the same to any Government note or Bank [illegible]re not originally specified therein, and every such extension s[illegible] have the same effect as if the Government note or Bank s[illegible] to which the certificate shall be extended had been origin[illegible] specified therein.

IV. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

CIVIL APPEALS--ERRORS.

ACT No. IX. OF 1854.

[*Passed on the 17th February*, 1854.

No order, &c. of Civil Court to be reversed, &c. on account of error, &c. not productive of injury to party.

An Act relating to Appeals in the Civil Courts of the East India Company.

Whereas every case in appeal ought to be determined upon the merits without regard to technical errors or defects; It is enacted as follows:

No order or decision of any of the Civil Courts of the East India Company shall be reversed, altered or remanded on account of any error, defect or irregularity not productive of injury to either party.

BENGAL.--ASSISTANT AND DEPUTY MAGISTRATES.

ACT No. X. OF 1854.

[*Passed on the 24th February*, 1854.

1. *Empowers Assistants and Deputy Magistrates to receive and try cases without previous sanction of the Magistrate.*

2. *Gives Deputy Magistrates same powers as by Act* 27, 1845. *Assistants have to try cases under Act* 4, 1840.

3. *Empowers Magistrates to remove cases from Deputies and Assistants.*

An Act for regulating the Powers of Assistants to Magistrates and of Deputy Magistrates appointed under Act XV. of 1843.

Whereas Assistants to Magistrates and also Deputy Magistrates appointed under Act XV. of 1843 to exercise the powers of a Covenanted Assistant, under Regulation XIII. of 1797, IX. of 1807, or III. of 1821, are not competent to decide any cases but such as are referred to them by the Magistrate, and whereas this restriction is attended with practical inconvenience to complainants in petty criminal cases; It is enacted as follows:

I. It shall be competent to the local Government of each of the divisions of the Bengal Presidency, to empower Assistants to Magistrates and also Deputy Magistrates appointed as aforesaid, to receive and try, without reference by the Magistrate, all or any of such charges as they are now competent to try upon reference

by the Magistrate, ~~subject to appeal from their decisions, according to the provisions of Section II. Act XXVII. of 1845.~~

II. Deputy Magistrates vested with special powers shall in each of the said divisions of the Bengal presidency have the same powers to decide cases under Act IV. of 1840, as by Act XXVII. of 1845 are vested in Assistant Magistrates with special powers.

III. Magistrates or Joint Magistrates may at any time call from any of their Assistants, or from any Deputy Magistrate subordinate to them, any case pending before any such Assistant or any such Deputy Magistrate under the provisions of this Act which for any reason the Magistrate, or Joint Magistrate may deem it proper to determine himself in the first instance.

Repealed by X 4 of 62.

COPPER COINAGE.

Repealed by X 111 of 62

ACT No. XI. OF 1854.

[*Passed on the 24th February*, 1854.

1. *Repeals part of s.* 1 *of Act* 21, 1835, *and of s.* 1 *of Act* 22, 1844.

2, 3. *Half pice may be issued from any mint, and* (3) *shall be of weight specified.*

An Act to amend Act No. XXI. of 1835 and Act No. XXII of 1844, and to authorize the issue of Half Pice.

Whereas it has been deemed expedient, with reference to the convenience of the public, that Copper Coins to be called Half Pice should be issued; It is enacted as follows:

I. So much of Section I. Act No. XXI. of 1835, as enacts that the Copper Coins therein mentioned only shall be issued from any mint in the Presidency of Bengal, and so much of Section I. Act No. XXII. of 1844 as enacts that the Copper Coins therein mentioned only shall be issued from any mint within the territories of the East India Company, are repealed.

II. After the passing of this Act, Copper Coins to be called Half Pice may be issued from any of the mints in the territories under the Government of the East India Company.

III. A Half Pice shall weigh fifty grains troy, and shall be a legal tender in any part of the the said territories for $\frac{1}{128}$ part of the Company's Rupee, but shall not be a legal tender except for fractions of a Rupee.

MADRAS.—DISTRICT MOONSIFFS.

Repealed by XVII of 1862

ACT No. XII. OF 1854.

[*Passed on the 10th March, 1854.*

1. *Empowers the G. in C. to confer on District Moonsiffs criminal jurisdiction in petty cases.*

2, 3. *Existing rules relating to District Police, and* (3) *Prisoners, to remain in force.*

4. *Existing rules of procedure to apply to D. M. Courts.*

5. *District Moonsiffs to note down the complaint, defence and oral evidence in writing.*

6. *Extends powers of Sessions Judges to proceedings under this Act.*

7. *Empowers G. in C. to suspend certain Regulations when powers under this Act are conferred on D. Moonsiffs.*

An Act for conferring Criminal Jurisdiction upon District Moonsiffs in the Presidency of Madras.

Whereas the administration of Justice in the Presidency of Madras will be promoted by vesting District Moonsiffs with jurisdiction in criminal cases; It is enacted as follows:—

I. It shall be competent to the Governor in Council of Fort St. George, by an order in writing, to empower one or more of the District Moonsiffs, in any Zillah of the said Presidency, to hear and determine complaints or prosecutions for petty offences and for petty thefts as defined in Sections XXXII. and XXXIII. of Regulation IX. of 1846, and for petty offences of the description specified in Clause 1, Section VIII. Regulation XIII. of 1832, and to inflict upon the offenders the punishments which Magistrates are authorized to inflict for the same offences by the said Sections of Regulation IX. of 1816, and by Clause 2, Section VIII. Regulation XIII. of 1832.

II. In bringing criminal cases before a District Moonsiff for trial under this Act, the District Police shall be subject to the same laws and rules as are now applicable to them in bringing similar cases before a Magistrate.

III. Prisoners under trial by the District Moonsiffs under the provisions of this Act shall remain in the custody of the Police.

IV. All laws and rules now in force relating to the mode of procedure in such criminal cases in the Courts of the Magistrates

shall also apply to and regulate the mode of procedure in such criminal cases in the Courts of the District Moonsiffs.

V. Provided always, that in trials or investigations under this Act, the District Moonsiffs shall take down the complaint and defence as well as the oral evidence fully in writing, and shall receive all relevant and material documentary evidence, properly tendered, and file the same or a copy thereof, or such parts thereof as may be relevant.

VI. The powers vested in Sessions Judges by Section XXXVII. Act VII. of 1843, and the Regulations therein referred to, to review, alter and overrule the proceedings, orders and judgments passed by Sudder Ameens in criminal cases, shall extend to the proceedings, orders and judgments passed by the District Moonsiffs under this Act.

VII. It shall be competent to the Governor in Council, when he shall empower one or more of the District Moonsiffs in any Zillah to exercise criminal jurisdiction under this Act, to order at the same time that the provisions of Clauses 2, 3 and 4 Section VI. Regulation IV. of 1821, and of Act XXXIII. of 1837, shall cease to have any operation in that Zillah, or in the parts of it in which such criminal jurisdiction is to be exercised by a District Moonsiff.

HORSBURGH LIGHT HOUSE.

ACT No. XIII. OF 1854.

[*Passed on the 7th April,* 1854.

1. *Repeals Act* 6, 1854.

2. 3. *Horsburgh Light House to remain the property of the E. I. C. and* (3) *that and the floating lights to be called the "Straits' Lights".*

4. *Ships of* 50 *tons and upwards to pay tolls as specified.*

5. *Ships to pay tolls on return voyages.*

6. *Ships of War, British and Foreign and E. I. Co.'s Ships to be exempt from toll.*

7. *Straits' traders to be liable to only half toll.*

8, 9. *Vests the management of the "Straits' Lights" in the Governor of the Settlements* (9) *who may appoint collector of tolls.*

10. *Directs how tolls collected shall be applied.*

11, 12. *Tolls to be paid before port-clearance granted,* (12) *to proper officer who shall give receipt for same.*

13, 14. *Port clearance not to be granted till tolls are paid, and ship and goods may be distrained and sold for tolls and* (14) *the Collector may sue for recovery of tolls.*

15. *Collector may require production of ship's register to ascertain burden of ship and may cause ship to be measured, &c.*

16. *Empowers collector of tolls to make enquiry on what voyage any ship is bound, &c.*

17. *Gives Magistrate jurisdiction to decide disputes respecting tolls under this Act.*

18. *Empowers the G. G. in C. to alter rates of tolls.*

19. *Interpretation Clause.*

An Act to repeal Act No. VI. of 1852, and to make provision for defraying the cost of the Light-House on Pedra Branca, and for maintaining the same, and also a Floating Light established in the Straits of Malacca, to the West of Singapore, and for the establishment and maintenance of such further Lights in or near to the said Straits as may be deemed expedient.

Whereas it was deemed desirable, for the safety and guidance of Ships navigating the China Seas, to build a Light-House on the Island Rock called Pedra Branca, situate at the Eastern entrance of the Straits of Singapore; and whereas certain sums of money were subscribed by private individuals for that purpose, but the same were insufficient to defray the expense of building such Light-House; and whereas the East India Company agreed to build such Light-House, and to advance certain sums of money to complete the same on condition that the said sums of money should be repaid to them by the levy of certain tolls; and whereas, since the passing of Act No. VI. 1852, a Floating Light has been established by the East India Company in the Straits of Malacca to the West of Singapore, at a place called the 2½-fathom bank, and it may hereafter be deemed expedient to establish and maintain other lights or beacons in or near to the said Straits, for the safety and guidance of Ships navigating the same; and whereas many Ships which derive the benefit of the Horsburgh Light and the said Floating Light established aforesaid, do not contribute to the expense thereof, and it is just and reasonable that they should be liable so to do; It is enacted as follows:

I. Act No. VI. 1852 is hereby repealed, except so far as it relates to any Act already done under the same, or to any toll

now due under the provisions thereof, or to any proceedings already adopted, or hereafter to be adopted, for the recovery of any such toll.

II. The Light-House on Pedra Branca aforesaid shall continue to be called "The Horsburgh Light-House," and the said Light-House, and the appurtenances thereunto belonging or occupied for the purposes thereof, and all the fixtures, apparatus and furniture belonging thereto, shall remain the property of, and be absolutely vested in, the East India Company and their successors.

III. The light maintained at the Horsburgh Light-House, and the said Floating Light established as aforesaid, and such other light or lights as shall be established by the East India Company in lieu of such Floating Light, or in addition thereto, in or near to the Straits of Malacca or Singapore, shall be called "The Straits' Lights."

IV. If, after the passing of this Act, any Ship, of the burden of fifty tons or upwards, shall depart from, or enter any port, harbour or roadstead in the possession or under the Government of the East India Company, upon, or during, or at the termination of any voyage, in the ordinary course of which she would pass any of the said lights, a toll shall be paid in respect of such Ship, except in the cases hereinafter mentioned at the rates following, that is to say—

1. If the voyage be one in the ordinary course whereof such Ship would pass the whole of the said lights, at the rate of one anna for every ton of her burden.

2. If the voyage be one in the ordinary course of which she would pass any one or more of the said lights, but not all of them, at the rate of half an anna for every ton of her burden. Provided that such toll shall not be payable at any such port or place, if such toll shall have been paid at the same or any other port or place under the Government of the East India Company in respect of the same voyage, and a proper voucher for such payment shall be produced, or other satisfactory proof of such payment given. Provided also that no toll shall be payable under this Act on account of any Ship in respect of any voyage for which toll hath been already paid or become payable under the

said Act No. VI. 1852, or during the period covered by such payment.

V. The return of a Ship from any port or place shall be deemed a distinct voyage within the meaning of this Act, notwithstanding toll shall have been paid in respect of her voyage to such port or place, and notwithstanding the terms of any Charter-party.

VI. All Ships of war, belonging to Her Majesty, or to any Foreign Government or State, and all Ships belonging to the East India Company shall be exempt from the payment of such toll.

VII. And whereas there are certain Vessels of small burden, called Straits' traders, which are engaged in the trade carried on between different ports and places, within or near to the said Straits, and it is just and reasonable, that such Vessels should not be charged full toll in respect of any voyage in the coures of such trade. It is therefore enacted, that in respect of any voyage which shall be made by any such Vessel in the course of such trade, toll shall be paid at only one-half of the rate at which it shall be payable in other cases under this Act.

VIII. The management and control of the said "Horsburgh Light House," and of the said Straits' Lights, are hereby vested in the Governor of the Straits' Settlements.

IX. The said Governor may appoint any person he may think fit, to be a collector of the tolls payable under this Act, at any port, harbour, or place under his Government.

X. The Funds raised by the tolls payable under this Act shall be applicable in the first place to defray the necessary expenses of maintaining and keeping up the said Light-House and the said Straits' Lights, and the establishment and maintenance of such other lights as aforesaid, as the Governor General of India in Council may think fit to establish and maintain, and all necessary expenses incidental thereto, and the surplus thereof shall from time to time, be applied in liquidation of the moneys advanced by the East India Company towards the erection and completion of the said Light-House, and the apparatus and furniture thereof.

XI. The toll to be levied under this Act shall become due

and be payable in respect of any Ship clearing out or departing from any port, harbour or roadstead, in the possession or under the Government of the East India Company, upon any such voyage as aforesaid, previously to the granting of any Port-Clearance for such Ship, or in the event of her not requiring a Port-Clearance, on her preparing to leave such port, harbour or roadstead on such voyage; and in respect of any Ship entering any such port, harbour or roadstead as aforesaid, upon or during, or at the termination of any such voyage from any port or place not under the Government of the East India Company, the toll shall be payable immediately upon her entering such port, harbour or roadstead.

XII. The Collector or other Chief Officer of Customs at any port, harbour or place in the possession, or under the Government of the East India Company, or any other Officer, whom the Government to which such port, harbour or place is subordinate, may appoint to receive the tolls above-mentioned, shall collect the same by himself, or by any Officer, in his establishment whom he shall appoint. The Officer to whom any such toll shall be paid, shall grant to the person paying the same a proper voucher in writing, under his hand, describing the name of his office, and the port or place at which such payment shall be made, the name, tonnage and other proper description of the Ship, and the voyage in respect of which such toll shall be paid.

XIII. The Officer of Government, whose duty it shall be to grant a Port-Clearance for any Ship clearing out of, or leaving any such port, harbour or place under the Government of the East India Company, shall not grant such Port-Clearance to any Ship until the Owner or Agent of such Ship, or the Master or other person in command thereof, shall pay all tolls to which such Ship shall be liable under this Act, or produce a proper voucher for, or give satisfactory proof of the payment of such tolls at the same or some other port or place. If any Master or Owner, or other person having the charge of any Ship liable to the payment of any tolls under this Act, shall refuse or neglect to pay the amount thereof to the person authorized to collect, or receive the same, such person may distrain or cause to be distrained, any goods, or merchandize, to whomsoever the same may belong, on board such Ship, and any tackle, apparel or furniture

belonging to such Ship, and may remove the same, or cause the same to be removed, to some convenient place, leaving on board such Ship notice, in writing of such distress and of the cause thereof, and of the place of removal, if such tolls, together with the costs of such distress and removal, shall not be paid within three whole days after the seizure, exclusive of the day of such seizure, the person authorized to collect or receive such tolls may cause the goods, merchandize, tackle, apparel and furniture so seized, to be sold, and out of the proceeds of such sale shall pay the amount of the tolls to which such Ship may be liable under this Act, together with the reasonable costs of such seizure, detention, and sale, rendering to the Master or Owner, or other person having the command of such Vessel, the over-plus, if any, on demand.

XIV. Notwithstanding any thing in this Act contained, the person authorized to collect the said tolls at any such port, harbour or place aforesaid, may, in his own name, sue for and recover, on behalf of the East India Company, the amount of any tolls payable to him under this Act, by action in any of the Civil Courts of Her Majesty or of the East India Company against the Owner or Master, or other person, who at the time of such toll becoming due, shall have the command of any Ship liable thereto.

XV. In order to ascertain the burden of any Ship liable to pay toll under this Act, the person authorized to collect such toll may require the Owner, Master or other person in command of such Ship, or any person having possession of the same, to produce the register of such Ship for the inspection of such person, if the Ship shall be a British registered Ship or a Ship registered in any part of the territories of the East India Company, and upon the refusal or neglect of any such Owner, Master or other person to produce such register, or if such Ship shall not be a Ship registered as aforesaid upon the refusal or neglect of such Owner or Master to satisfy the person authorized to collect such tolls as to what is the true burden of the Ship, it shall be lawful for such person to cause such Ship to be measured at the expense of the Master thereof, and such expense shall be receivable in the same manner as tolls payable under this Act, or it shall be lawful for such person to deliver to

such Master, Owner or other person in command of the Ship, or in the possession thereof, or to leave for him on board such Ship a notice in writing, specifying what, in his judgment, is the burden of the Ship, and the burden specified in such notice shall be deemed to be the real burden of the Ship and be treated as such for all the purposes of this Act, until the Owner, Master or other person having the command of the Ship shall give sufficient proof of the true burden thereof.

XVI. The Master of any Ship which shall depart from or enter any such port, harbour or roadstead as aforesaid, upon, or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive tolls under this Act, specify upon what voyage he is bound; and if any Master of any such Ship, shall refuse or neglect so to do, or shall give a false statement, or shall endeavour to evade the payment of any tolls payable under this Act, or shall obstruct any Officer of Government in the discharge of this duty under this Act, he shall be punishable by a Magistrate in a summary manner by a fine not exceeding two hundred rupees.

XVII. If any dispute shall arise respecting the liability of any Ship, to the payment of toll under this Act, or in respect to the burden of any Ship, or the amount of toll payable, or the amount of any charges on account of any distress, removal or sale under this Act; such dispute shall be heard and determined by a Magistrate in a summary manner, and the decision of such Magistrate shall be final.

XVIII. The Governor General of India in Council may, from time to time, as he may think fit, reduce the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise the same to any amount not exceeding the amounts above specified.

XIX. The word "Ship" throughout this Act shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Steam-vessel and any square-rigged Vessel. The word "Master" shall mean any person having the Command of a Ship.

The word "Magistrate" shall be deemed to include a Joint Magistrate and any person lawfully exercising the powers of Magistrate, and Justice of the Peace.

ASSAM COMPANY.

ACT No. XIV. OF 1854.

[*Passed on the* 15*th April*, 1854.

Continuing Act 19, 1845, *till* 30*th April*, 1855.

An Act to continue the operation of Act No. XIX. of 1845 until the 30th day of April 1855.

Whereas Act No. XIX. of 1845, entituled An Act for incorporating the Assam Company will cease to have effect after the 30th day of April 1854, and it is expedient that some temporary arrangement should be effected to prevent inconvenience to the interests of the Company by the expiry of its Charter before the necessary inquiries connected with a proposition for the renewal and extension of the Charter for a lengthened period can be completed; It is enacted as follows:

I. Act No. XIX. of 1845 shall continue to be in force until the 30th day of April 1855.

BORNEO COMMISSION.--SIR J. BROOKE.

ACT No. XV. OF 1854.

[*Received assent of G. G. on the* 21*st July*, 1854.

Recites a Commission and expediency of vesting Commissioners with powers.

1. *Prescribes oath to be taken by Commissioners.*

2. *Empowers them to summon witnesses with papers.*

3. *In order to procure discovery provides for indemnification of witnesses.*

4, 5, 6. *Empowers Commissioners to examine witnesses on oath, &c. and* (5) *on default of witness to appear or refusal to answer, to punish witness and* (6) *makes the giving of false evidence perjury.*

7. *Limits right of action against Commissioners to six calendar months after Act done.*

8. *In case of death of one Commissioner, survivor may execute Commission.*

An Act to facilitate the proceedings of the Commissioners appointed to inquire into certain matters connected with the position of Sir James Brooke, Her Majesty's Commissioner and Consul General in Borneo.

Whereas the Governor General of India in Council has, by a Commission bearing date the seventh day of July, in the year of our Lord One thousand Eight hundred and Fifty-four,

nominated and appointed Charles Robert Prinsep, Esq., Barrister at-Law and Advocate General of Fort William in Bengal, and the Hon'ble Humphrey Bohun Devereux, in the Civil Service of the East India Company on their Bengal Establishment, to inquire into certain matters connected with and arising out of the position of Sir James Brooke, Her Majesty's Commissioner and Consul General in Borneo; and whereas it is expedient that the Commissioners aforesaid should be invested with certain legal powers within the territories in the possession and under the Government of the East India Company, It is enacted as follows:

Commissioners to be sworn.

I. Each of the said Commissioners shall, before beginning to act in the execution of the Commission aforesaid, take and subscribe, before one of the Judges of Her Majesty's Supreme Court of Judicature, at Fort William in Bengal, the following oath, that is to say:—

"I do swear, that I will truly and faithfully, according to the best of my knowledge and judgment, execute the powers and trusts vested in me by the Governor General of India in Council, by a Commission bearing date the Seventh day of July, in the year of our Lord one thousand eight hundred and fifty-four, and by Act No. XV. of 1854. So help me God."

And the Judge of the Supreme Court, before whom such oath shall be taken, shall transmit the same to the Secretary to the Government of India in the Foreign Department, to be filed among the records of his office.

To summon witnesses, &c.

II. It shall be lawful for the Commissioners aforesaid, by a summons under their hands, or under the hand of either of them, to require the attendance before them, at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within the Jurisdiction of the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca, whose evidence shall, in the judgment of the Commissioners aforesaid, be material to any of the matters directed by the Governor General of India in Council to be enquired of, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds and writings, as to them, the said Commissioners, shall appear necessary for

arriving at the truth of the matters directed to be enquired into by the said Commissioners, all which persons shall accordingly attend the said Commissioners and shall produce such books, papers, deeds and writings as shall be required of them and shall be in their custody and control, or in the custody and control of any one of them, according to the tenor of the summons. Provided always that no person shall be compellable to answer any question or to produce any book, paper, deed or writing, the answer to which, or the production of which, may criminate or tend to criminate such person, or to expose such person to any pains or penalties.

Witnesses indemnified.

III. And whereas it may appear to the Commissioners aforesaid desirable to examine as witnesses several persons touching the matters directed to be enquired into, the evidence of which persons may tend to expose them to penal consequences, every person who shall be examined as a witness and give evidence before the Commissioners aforesaid touching the matters in question, and who shall, upon such examination make a true discovery to the best of his knowledge touching all matters to which he or she shall be so examined, shall be freed from all penal actions, forfeitures, punishments, disabilities and incapacities and all criminal prosecutions to which he or she may have been, or may become, liable or subject within any part of the said territories in the possession and under the Government of the East India Company for any thing done by such person in respect of any acts relating to which he shall be examined. Provided that where any witness shall be so examined as aforesaid, such witness shall not be indemnified under this Act, unless or until he or she shall receive from the Commissioners aforesaid, under their hands, a certificate in writing, stating that such witness has upon his or her examination made a true disclosure touching all matters to which he or she has been so examined.

Power to administer an oath, &c.

IV. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath, or in the case of persons allowed by law to make affirmation instead of taking an oath, an affirmation, in such form as to them, the said Commissioners, shall seem fit, to all persons who shall be examined before them touching the matters

directed, or which may be directed to be enquired into, by them as aforesaid.

Witnesses refusing to attend or answer.

V. If any person, upon whom any such summons shall be served by the delivery thereof to him or her, or by the leaving thereof at his or her usual place of abode, being a person subject to the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore or Malacca, shall, without reasonable cause (to be allowed by the Commissioners aforesaid,) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be,) or shall not make answer to such questions as shall be put to him or her touching the matters directed, or which may hereafter be directed, to be inquired into by the Commissioners aforesaid, or shall refuse or fail, without reasonable cause (to be allowed by the Commissioners aforesaid,) to produce and show to the said Commissioners any such paper, book, deed or writing being in their possession or under their control, as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters directed to be inquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such persons so failing to appear, or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him or her, or refusing to produce and show any such book, paper, deed or writing as aforesaid, as the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

Penalty for false evidence.

VI. Every person, who upon examination upon oath, or affirmation before the Commissioners aforesaid, shall wilfully give false evidence, shall be liable to the pains and penalties of perjury.

Limitation of actions.

VII. No action shall be brought against the Commissioners aforesaid, or any other person or persons whomsoever, for anything done in the execution of this Act, unless such action shall be brought within six calendar months next after the doing of such thing.

VIII. In case of the death or resignation of either of the

In what cases one Commissioner may act.

said Commissioners, or in the event of either of them becoming incapable of acting, it shall be lawful for the other Commissioner to act alone; and every part of this Act shall be deemed to apply to such Commissioner as if he alone had been mentioned herein.

BENGAL AND N. W. PROVINCES.—POLICE.

ACT NO. XVI. OF 1854.

[*Passed on the 28th July*, 1854.

1. *Repeals ss.* 3 *and* 7 *of B R* 11, 1831.
2. *Places Darogahs in subordination to Tehseeldar in certain cases.*
3. *Extends B. R.* 11, 1831, *as amended to N. W. Provinces.*

An Act to amend Regulation XI. of 1831 of the Bengal Code.

Whereas the provisions of Section III. and Section VII. of Regulation XI. 1831, have been found inconvenient, and whereas it is expedient that Regulation XI. 1831, as amended by this Act, should be extended to the whole of the Provinces of Benares; It is enacted as follows:—

Sections III. and VII., Regulation XI. 1831, repealed

I. Sections III. and VII, Regulation XI. 1831 of the Bengal Code are hereby repealed.

Darogahs of Police to be subject to Tehseeldars.

II. Wherever any Tehseeldar shall have Police jurisdiction under the provisions of Section II. of the said Regulation XI. 1831, every Darogah of Police hereafter appointed within the local limits of the police jurisdiction of such Tehseeldar, shall be subordinate to, and subject to the control of such Tehseeldar, in his capacity of Chief Police Thannadar.

Regulation XI. 1831, as amended, extended to Benares.

III. Regulation XI. 1831, as amended by this Act, shall extend to the whole of the Province of Benares, and all powers vested by the said Regulation in the Governor General in Council, may be exercised by the Lieutenant-Governor of the North-Western Provinces.

POST OFFICE.

ACT No. XVII. OF 1854.

[*Passed on the 12th August*, 1854.

1. *Repeals Act* 17, 1837; 20, 1838; 17, 1839.

2. *Establishes exclusive privilege of conveying letters by post, &c. except* (1) *letters sent by friend, &c.* (2) *letters sent by a messenger on purpose;* (3) *letters sent with goods.*

3. *Prohibits certain descriptions of persons from carrying letters, viz.* (1) *Common carriers;* (2) *Ship-masters, &c.*

4. *Prescribes the penalties for carrying or sending letters, &c. in prohibited ways.*

5. *Empowers the G. G. in C. to appoint, or to authorize the local Governments to appoint, such officers as G. G. in C. may deem expedient.*

6. *Prescribes the postage rates on letters and defines what shall be deemed letters.*

7. *Prescribes postage rates,* (1) *on imported newspapers, pamphlets and other printed or engraved papers, &c. and* (2) *on the same not imported.*

8, 9. *Prescribes conditions to be observed in posting newspapers, &c: and if conditions are not observed,* (9) *letter postage rates to be paid.*

10. *Proof sheets to be subject to same rates as newspapers.*

11. *Prescribes inland banghy postage rates, by weight and distance.*

12. *Prescribes banghy rates for Books, pamphlets, packets of newspapers and other printed and engraved papers, not exceeding* 120 *tolahs.*

13. *How distance shall be calculated.*

14. 15. *Letters exceeding* 12 *tolahs' weight to go not by letter post, but banghy post; or* (15) *if no banghy post, by letter post, but not exceeding* 40 *tolahs, except under special direction of Post Master.*

16. *Prohibits sending letters under* 12 *tolahs by banghy.*

17. *Prescribes rates of postage on Ship-letters by E. I. Co.'s post.*

18. *Limits weight and dimensions of banghy parcels to* 600 *tolahs and* 2,592 *cubic inches.*

19. *Postage must be prepaid to places to which the E. I. C. have not established a post.*

20. *Prescribes double postage on letters not prepaid. Prepayment to be by stamps.*

21. *Empowers G. G. in C. to prescribe prepayment in all cases.*

22. *Letters, &c. insufficiently stamped to be charged on delivery double in respect of the deficiency.*

23. *Re-directed letters to be subject to ordinary postage rate, which need not be prepaid.*

24. *Prohibits sending explosive or dangerous materials by post.*

25. *Empowers G. G. in C. to lower postage rates.*

26. *Letters not to be recalled, except as G. G. in C. may direct; newspapers &c may be recalled.*

27. *British postage rates recoverable like inland postage.*

28, 29, 30. *Prepayment to be by postage stamps, which* (29) *shall be provided by the G. G. in C.* (30) *such stamps to be under management of Post Office.*

31, 32, 33, 34. *G. G. in C. to make rules for supplying the public with stamps, and* (32) *vendors to be subject to such rules, and* (33) *to be subject to penalties for refusing to supply stamps, and* (34) *also for overcharge for stamps.*

35. *Provides punishments for forging stamps, &c. and* (*cl.* 2) *empowers Police Officer to seize, and* (*cl.* 3) *to search houses, &c.*

36. *Provides penalties for evading postage duties, by using old stamps, &c.*

37. *Postage on letters not taken in to be paid by sender. Postages recoverable like fines.*

38. *Provides for registering letters.*

39. *Provides for sending letters by expresses.*

40, 41, 42. *Directs Commanders of ships having letters to be put into the Post Office, and* (41) *subject to penalty for every letter kept back, and* (42) *prescribes what such Commander shall be paid for such letters.*

43. *Obliges outward bound Commanders to carry letter bags for Post Office.*

44. *Unclaimed letters to be returned to sender after* 3 *weeks and directs what shall be done with money, &c.*

45. *Directs what shall be done with refused letters.*

46. 47. *Abolishes franking and directs service letters to be charged to public departments from which sent and* (47) *person making false certificate of service letter to be punishable.*

48. *Directs what shall be done in respect of contraband articles passed through office or letters illegally sent.*

49. *Exonerates Government from responsibility for loss or damage in respect of post.*

50. *Provides punishments for secreting, opening or making away with letters, &c. or breaking seals, &c.*

51. *Prohibits detention of post office messengers with mails and detention of horse and carriage, &c.*

52. *Provides penalties for retaining, secreting, making away with letters and other similar offences.*

53. *Provides for punishment of letter carriers and other Post Office servants, endangering safety of letters, loitering, &c.*

54. *Provides for punishment of fraudulent misappropriation of postage money, &c.*

55. *Provides for punishment of putting wrong marks on letter, altering, removing marks and stamps, &c.*

56, 57. *Provides punishment for Post Office servants incorrectly preparing documents, &c. and* (57) *fraudulently putting letters into post bag, &c.*

58, 60. *Offences punishable only with fine may be dealt with by Js. P. and Magistrates or* (60) *by Assistants on reference of Magistrate.*

59. *Convictions not to be quashed for error of procedure: Depositions to be returned on certiorari.*

60. *See supra.*

61. *Local Government may empower Assistants and Deputies to exercise power subject to appeal to Magistrate.*

62. *Fines to be levied by distress and sale of goods, and on default of realization offender may be arrested, &c.*

63. *Half the fine or amount recovered may be awarded to informer.*

64. *Proceedings for recovery of fine not to be taken without order of D. G. or P. M. G.*

65. *Servant of the E. I. C. employed in Post Office duty, committing offences against the act on foreign native territory to be punishable.*

66. *Interprets words "Magistrate" and "fine."*

67. *Empowers G. G. in C. to frame rules for Post Offices.*

68. *Books, &c. to and from the U. K. not chargeable with postage under this Act, but may be made chargeable by order of G. G. in C.*

69. *Empowers the G. G. in C. to order specific letters, &c. not to be chargeable.*

70. *Empowers G. G. in C. to make rules for management of district dawks*

71. *Act to take effect, 1st October, 1854.*

An Act for the management of the Post Office for the regulation of the duties of Postage, and for the punishment of offences against the Post Office.

Repeal of former Acts.

I. Act No. XVII. of 1837, Act No. XX. of 1838, and Act No. XVII. of 1839, are hereby repealed, except so far as they repeal the whole, or any part of any other Act or Regulation, and except, as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation.

Exclusive privilege of carrying letters vested in the East India Company.

II. Wheresoever, within the territories under the Government of the East India Company, posts or post communications are, or shall be established by the East India Company, the said East India Company shall have the exclusive privilege of conveying by post, from one place to another, all letters other than letters conveyed by Her Majesty's mails, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, dispatching,

and delivering all letters, except in the following cases, that is to say:

1. Letters sent by a private friend in his way, journey, or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward, or other profit or advantage, for receiving, carrying, or delivering the same.

2. Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose.

3. Letters solely concerning goods or other property sent either by sea or land, to be delivered with the goods or property which such letters concern, without hire, reward, or other profit or advantage, for receiving, carrying, or delivering such letters.

But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

Prohibitions.

III. Wheresoever, within the said territories, posts or post communications are, or shall be established by the East India Company, the following persons are expressly forbidden to collect, carry, or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say:

1. Common carriers of passengers or goods, and their drivers, servants, or agents; except letters solely concerning goods in their carriages.

2. Owners and Commanders of ships, steam boats, or other vessels passing on any river or canal, or to or from any port in the territories under the Government of the East India Company, and their servants or agents; except letters solely concerning goods on board.

Penalties for breach of privilege.

IV. Every person who shall convey otherwise than by the post a letter not excepted from the said exclusive privilege shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees; and every person who shall be in the practice of so conveying letters not so excepted shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees; and every person who shall perform otherwise than by

the post any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, or delivering, a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of so performing any such incidental services shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees; and every person who shall send a letter not excepted from the said exclusive privilege otherwise than by the post, or shall either tender or deliver a letter not so excepted in order to be sent otherwise than by the post shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of committing any of the acts last mentioned shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees; and every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the post shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of making a collection of excepted letters for such purpose shall forfeit, for every week during which the practice shall continue, a further sum not exceeding five hundred rupees. Every person who shall carry, receive, or deliver a letter, or collect letters contrary to the provisions of Section III. of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of committing any of the acts last mentioned shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

Appointment of Officers.

V. For carrying on the service of the Post Office, it shall be lawful for the Governor General of India in Council to appoint, or to authorize the local Governments to appoint, such Officer or Officers, with such official styles or designations, and to vest them with, and delegate to them such powers not inconsistent with the provisions of this Act, as the said Governor General of India in Council may deem expedient.

VI. Wheresoever posts or post communications are, or shall

Postage rates on letters.

be established by the East India Company, postage, if pre-paid by a stamp or stamps, as hereinafter provided, shall be charged by weight on letters transmitted by the letter post by sea or land, or partly by sea and partly by land, according to the following scale:

On every letter not exceeding a quarter of a tolah in weight, six pies.

On every letter exceeding a quarter of a tolah, and not exceeding half a tolah in weight, one anna.

On every letter exceeding half a tolah, but not exceeding one tolah in weight, two annas.

On every letter exceeding one tolah, and not exceeding one tolah and a half in weight, three annas.

On every letter exceeding one tolah and a half and not exceeding two tolahs in weight, four annas.

And for every tolah in weight above two tolahs, two additional annas; and every fraction of a tolah above two tolahs shall be charged as one additional tolah.

Every packet or other article transmitted by the letter post shall be deemed a letter within the meaning of this Section, unless it be a packet or other article on which a different rate of postage shall be chargeable under this Act.

The rates of postage specified in this and the following Section may be charged on all letters or other articles which shall pass through any Post Office, provided that such postage shall not be charged on letters or other articles received through Her Majesty's Mails, when such letters or articles are delivered at the place of receipt; nor on any letter or article transmitted by Her Majesty's Mails, when posted at the place of dispatch of such Mails; nor on any newspaper received by sea otherwise than through the East India Company's post and delivered at the place of receipt; nor on any newspaper posted for dispatch by sea otherwise than through the East India Company's post when posted at the place of dispatch.

Postage rates on newspapers, &c.

VII. Wheresoever posts or post communications are, or shall be established by the East India Company, postage on newspapers, pamphlets, and other printed or engraved papers transmitted by the letter post

by sea or land, or partly by sea and partly by land, shall be charged by weight according to the following scale:

1. On every imported newspaper, pamphlet, or other printed or engraved paper—

If the same shall not exceed six tolahs in weight, two annas.

If the same shall exceed six, but shall not exceed twelve tolahs in weight, four annas.

If the same shall exceed twelve tolahs in weight, there shall be charged and taken two additional annas for every six tolahs in weight above twelve tolahs; and every fraction of six tolahs above twelve tolahs shall be charged as six additional tolahs.

2. On every newspaper, pamphlet, or other printed or engraved paper not imported—

If the same shall not exceed three and a half tolahs in weight two annas.

If the same shall exceed three and a half tolahs, and not exceed six tolahs in weight four annas.

If the same shall exceed six tolahs in weight, there shall be charged and taken two additional annas for every three tolahs in weight above six tolahs; and every fraction of three tolahs above six tolahs in weight shall be charged as three additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper, pamphlet, or other printed or engraved paper through the Post Office, but it shall be lawful for all persons to send the same in any other manner.

Newspapers, &c., how to be sent by post.

VIII. A newspaper, pamphlet, or other printed or engraved paper shall not be sent by the letter post at the rates prescribed in the preceding Section, unless the following conditions be observed, that is to say:

1. It shall be without a cover, or in a short cover open at both ends.

2. There shall be no word printed on such newspaper, pamphlet, or other printed or engraved paper after its publication, or upon the cover thereof, nor any writing or mark upon it or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender.

3. There shall be no paper or thing enclosed in or with any such newspaper, pamphlet, or other printed or engraved paper.

When to be charged with letter postage.

IX. Any newspaper, pamphlet, or other printed or engraved paper sent by the letter post, in respect of which the above conditions shall not be observed, shall, together with any thing enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Proof sheets.

X. Proof sheets marked as such may be sent by the letter post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender, otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Inland banghy postage.

XI. Inland banghy postage shall be charged by weight and distance, on parcels sent by the banghy post according to the following scale:

FOR DISTANCES.		IF NOT EXCEEDING IN WEIGHT.													
		20 Tolahs		100 Tolahs		200 Tolahs		300 Tolahs		400 Tolahs		500 Tolahs		600 Tolahs	
	Miles.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.
Not exceeding	100	0	2	0	4	0	8	0	12	1	0	1	4	1	8
Not exceeding	300	0	6	0	12	1	8	2	4	3	0	3	12	4	8
Not exceeding	600	0	12	1	8	3	0	4	8	6	0	7	8	9	0
Not exceeding	900	1	2	2	4	4	8	6	12	9	0	11	4	13	8
Not exceeding	1200	1	8	3	0	6	0	9	0	12	0	15	0	18	0
Exceeding	1200	1	14	3	12	7	8	11	4	15	0	18	12	22	8

Provided that several letters shall not be enclosed in a banghy parcel under a penalty not exceeding fifty rupees, and letter postage shall be chargeable on every letter contained therein.

Books, pamphlets, &c.

XII. Books, pamphlets, packets of newspapers, and of printed or engraved papers other than newspapers, provided they do not exceed one hundred and twenty tolahs in weight, and be sent without covers or packed in short covers open at both ends, and provided the postage thereon be prepaid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall, if sent by the banghy post, or by sea as banghy parcels, or partly by the banghy post and partly

by sea, be charged with the following rates of postage, without reference to the distance to which they may be carried:

If not exceeding twenty tolahs in weight, one anna.

If exceeding twenty tolahs, but not exceeding forty tolahs in weight, two annas.

And for every twenty tolahs in weight above forty tolahs, there shall be charged and taken one additional anna; and every fraction of twenty tolahs above forty tolahs shall be charged as twenty additional tolahs.

If any such book, pamphlet, or packet exceed one hundred and twenty tolahs, or if the postage chargeable thereon be not prepaid as aforesaid, it shall be subject to the rate of postage prescibed for banghy parcels in the preceding Section of this Act.

Table of distances

XIII. Banghy postage, when chargeable by distance under Section XI., shall be calculated and charged according to a Polymetrical Table of distances, showing, as accurately as practicable the distance by the nearest road between every two Post Office Stations in India, which Table shall be prepared by order of the Governor General of India in Council and corrected from time to time as need be. Each Post Master General shall prepare from the aforesaid Polymetrical Table in the English and Vernacular languages for the use of every Post Office under his control, a list of all the other Post Offices of India, arranged alphabetically and showing the distance of each of them from the Post Office for the use of which it is made; and such list shall be affixed in some conspicuous place in such Post Office.

Limitation of weight of letters where there is a banghy post.

XIV. Where there is a banghy post established on any line of road, no letter or other article exceeding twelve tolahs in weight shall be conveyed by the letter post on that line of road, except in such cases, and under such restrictions as the Governor General of India in Council may direct; and every letter or other article not exceeding twelve tolahs in weight shall be conveyed by the letter post, unless expressly directed to be sent by the banghy post.

Where there is no banghy post.

XV. Where there is no banghy post established on any line of road, letters, parcels and packets exceeding twelve tolahs, and not exceeding forty

tolahs in weight, shall be received and transmitted by the letter post. Letters shall be charged according to the scale in Section VI., and newspapers, pamphlets, and other printed or engraved papers according to the scale in Section VII. of this Act, as the case may be; parcels and packets shall be charged with banghy postage according to the scale in Section XI. or Section XII. of this Act, as the case may be, if it be certified in writing on such parcel or packet, under the full signature and address of the sender, that it does not contain any letter or other written communication, or any newspaper, pamphlet, or ther printed or engraved paper. If any such certificate be false, any such thing contained in such certified letter or other article shall be charged with postage according to the rates specified in Section VI. or Section VII. of this Act as if sent separately, and the sender will be subject to the penalty hereinafter provided. Parcels exceeding forty tolahs, and not exceeding six hundred tolahs in weight, shall be transmitted along any such line as banghy parcels; but it shall be in the discretion of the Post Master or Deputy Post Master, to whom such parcels are brought for dispatch, to forward them at such times and in such manner as may be convenient.

Letters and other articles exceeding twelve tolahs but not exceeding forty tolahs.

Certificate.

Parcels exceeding forty tolahs.

XVI. Whenever the Post Master General of any Presidency shall have notified in the official *Gazette*, that the banghy post is conveyed in the same carriage with the letter post along any line of road, it shall not be lawful to send by the banghy post any letter or written communication of less weight than twelve tolahs, or any packet of newspapers; and every person who shall knowingly send by the banghy post, along any such line of road, any such letter, written communication, or newspaper enclosed in a parcel, shall forfeit for every such offence a sum not exceeding fifty rupees, and postage shall be charged for every such letter, packet, or newspaper, as if sent separately by the letter post.

Where banghy parcels and letter mails are conveyed in the same carriage.

XVII. On all parcels chargeable under Section XI. with banghy postage according to distance when conveyed by land, ship postage shall be

Ship postage on parcels.

charged when they are conveyed by means of the East India Company's post by sea according to the following scale, *viz.* :

On every parcel not exceeding one hundred tolahs in weight, eight annas.

And for every hundred tolahs in weight above one hundred tolahs, eight additional annas; and every fraction of one hundred tolahs above one hundred tolahs shall be charged as one hundred additional tolahs; and if such parcel be conveyed by the East India Company's post, partly by banghy and partly by sea, ship postage shall be charged in addition to inland banghy postage.

Limitation of weight and dimensions of parcels.

XVIII. No parcel exceeding six hundred tolahs in weight, or three feet in length, or one foot in breadth or one foot in depth, or two thousand five hundred and ninety-two cubic inches in bulk, shall be received at any Post Office for despatch either by ship or steam-boat, or by banghy post, except in such cases and under such restrictions as the Governor General of India in Council shall direct. On parcels exceeding six hundred tolahs in weight, when so forwarded, there shall be charged and taken an additional single rate of banghy postage according to distance for every hundred tolahs above six hundred tolahs; and every fraction of one hundred tolahs above six hundred tolahs shall be charged as one hundred additional tolahs.

Ship and inland postage on foreign covers must be prepaid.

XIX. Letters and newspapers posted for dispatch, either by Her Majesty's Mails or otherwise to Ceylon or to any place to which a post communication shall not have been established by the East India Company, upon which the full amount of postage chargeable under this Act has not been pre-paid by a postage stamp or stamps, shall not be dispatched, but shall be dealt with as unclaimed letters are hereinafter directed to be dealt with. No parcel shall be received for dispatch as above to any such place, unless the full amount of postage chargeable thereon shall be prepaid in money or by a postage stamp or stamps, provided that nothing in this Section shall be construed to require the pre-payment of British postage on letters, parcels, or other articles, upon which the pre-payment of such postage has been left optional by Her Majesty's Post Master General.

XX. Subject to any alteration which may be made by virtue

Postage on letters, &c., not prepaid.

of the power hereinafter vested in the Governor General of India in Council, letters posted for dispatch, either by sea or land, to any place to which a post communication is, or shall be established by the East India Company, upon which the postage chargeable under Section VI. of this Act has not been pre-paid by a postage stamp or stamps, shall be forwarded to their destination, and upon every such letter double postage shall be charged on delivery. Newspapers, pamphlets, and other printed and engraved papers so posted, not pre-paid by a postage stamp or stamps, shall be forwarded to their destination, and the postage chargeable on them shall be levied on delivery; but no money shall be received at any Post Office in pre-payment of postage on any letter, newspaper, pamphlet, or other printed or engraved paper so posted. On parcels so posted, the postage chargeable according to the Section XI. or Section XVII. may be pre-paid in money or by a postage stamp or stamps: when not pre-paid, they shall be forwarded to their destination, and the postage thereon shall be levied on delvery.

Governor General in Council may direct pre-payment of postage in all cases.

XXI. It shall be lawful for the Governor General of India in Council at any time to direct that all or any letters, packets, parcels, or other articles, shall not be forwarded by post, unless the postage thereof shall be pre-paid by means of a proper stamp or stamps; or that on all or any letters, packets, parcels, or other articles on which the postage shall not be pre-paid by a stamp or stamps, or otherwise, as the said Governor General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Letters, &c., with insufficient stamps, how charged.

XXII. If any letter be posted, having affixed thereto a postage stamp or stamps, the value of which shall be less than the rate of postage to which such letter would be liable if duly and properly stamped when posted, there shall be charged on such letter a postage of double the amount of the difference between the value of the stamp affixed thereto and the postage to which such letter would be liable as aforesaid if duly and properly stamped when posted. If any parcel, newspaper, pamphlet, or other printed or engraved paper shall be so posted, having

affixed thereto any such stamp or stamps, the value of which shall be less than the rate of postage to which the same would be otherwise liable under this Act, there shall be charged thereon a postage equal to the amount of the difference between the value of the stamp or stamps affixed thereto, and the postage to which such parcel, newspaper, pamphlet, or other printed or engraved paper shall be otherwise liable, as aforesaid.

Re-directed letters.

XXIII. On every letter or packet, which shall be re-directed and forwarded by the letter post, from any place to which it shall have been conveyed by the letter post, there shall be charged for the postage thereto from the place at which the same shall be re-directed, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable, if posted and pre-paid by stamp at the place where it shall be re-directed.

No dangerous substance to be sent by post.

XXIV. No person shall knowingly post, or send, or tender, or deliver in order to be sent by the post, any letter, parcel, or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall forfeit for every such offence a sum not exceeding two hundred rupees.

Governor General of India in Council may alter the rates of postage.

XXV. It shall be lawful for the Governor General of India in Council at any time to authorize the levy of postage at rates different from those prescribed in this Act, provided there be no increase made thereby in any particular of the rates so prescribed, except as provided in Section XXI. of this Act.

Letters and packets once put into the Post Office.

XXVI. No person having delivered into any Post Office any letter, parcel, or packet shall be entitled to recal the same; but nothing in this Section shall prevent the re-delivery of any such letter, parcel or packet to the sender thereof, subject to such rules and regulations, if any, as the Governor General of India in Council may direct; but newspapers, pamphlets, or other printed or engraved papers may be so recalled or restored, provided that the person claiming the same shall satisfy the Officer in charge of the Post Office that he was the sender thereof, and provided the amount of postage which would have been due thereon, if the same had been forwarded, be paid.

Steam postage.

XXVII. The postage charged on letters and packets by Her Majesty's Post Master General, under the name of Steamer or British packet postage, or by any other denomination, shall, after the rates of such postage have been published in the official *Gazette* of any Presidency be recovered in the same manner as postage chargeable under this Act.

Postage stamps.

XXVIII. All letters and other articles, having a stamp or stamps affixed thereto, (such stamp or stamps in every case being affixed on the outside and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act,) shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

How to be provided.

XXIX. The Governor General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

Postage stamps to be under management of any Officer to be appointed.

XXX. Postage stamps provided as foresaid shall be under the care and management of such Officer or Officers as the Governor General of India in Council shall direct; and all sums of money realized by the sale of postage stamps shall be carried in the public accounts to the credit of the Post Office.

Vendors of postage stamps to be appointed.

XXXI. The Governor General of India in Council may make rules for the appointment and government of vendors of postage stamps, and thereby direct how and under what terms and conditions postage stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors, and whether any and what remuneration or discount shall be allowed to them, and how and in what manner and at what time or times such vendors shall keep and render their accounts and pay over the proceeds of any sales made by them or re-deliver the stamps entrusted to them.

Vendors to be bound by rules.

XXXII. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof, shall be liable to a

penalty not exceeding two hundred rupees, in addition to any other proceedings to which they may be liable.

Penalty of vendor refusing to supply stamps.

XXXIII. Any Government vendor of postage stamps, who shall be convicted of refusing or unnecessarily delaying, without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof, (the stamp vendor having in his possession for sale sufficient stamps of the description and value required,) shall be subject to a fine not exceeding one hundred rupees.

Penalty of vendor selling stamps for higher price than the value denoted thereby.

XXXIV. Any Government vendor of postage stamps, convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be deemed guilty of extortion, and shall be punished, on conviction, with imprisonment, with or without hard labor, for any term not exceeding six months, or to a fine not exceeding one hundred rupees, and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Magistrate in the same manner as any penalty under this Act.

Penalties for forging stamps, &c.

XXXV. Clause 1. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any die, plate, or other instrument used for the purpose of making postage stamps; or if any person shall forge or imitate, or cause to be forged or imitated, any postage stamp; or if any person shall knowingly, and without lawful excuse (the proof of which excuse shall lie on the person accused,) have in his possession any false, forged or counterfeited die, plate, or other instrument resembling, or intended to resemble, either wholly or in part, any die, plate, or instrument used for the purpose aforesaid; or if any person shall stamp or mark any paper or other substance with any such false, forged, or counterfeit die, plate, or instrument as aforesaid; or if any person shall knowingly use, utter, sell, or expose for sale, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the person accused) have in his possession any paper or other substance having thereon the impression of any such false, forged, or counterfeit die, plate, or other instrument as aforesaid; or

having thereon any counterfeit stamp resembling, or intended to resemble, or to be mistaken for a postage stamp, such person so offending, and every person knowingly aiding, abetting, or assisting such person in committing any such offence, shall be punished with imprisonment, with or without hard labor, for a term not exceeding seven years, and shall also be liable to fine.

Forged stamps may be seized.

Clause 2. Any Officer of Police may seize and transmit to the Magistrate any such forged or counterfeit die, plate, or other instrument, or any such forged or counterfeit postage stamp.

And searched for.

Clause 3. Any Officer of Police having power by law to search for stolen property may, subject to the provisions under which he is empowered to make such search, proceed to search houses or other places in which there may be reasonable cause to suspect that there is any such forged or counterfeit article, and shall seize and transmit to the Magistrate any such counterfeit article that may be found therein.

Penalties for evading postage stamp duties.

XXXVI. If any person shall fraudulently remove any postage stamp from any letter or other thing to which such stamp shall have been affixed; or if any person shall knowingly use any such stamp or stamps so fraudulently removed; or if any person shall fraudulently erase or remove, from any such stamp or stamps, any writing or other matter or thing thereon written or impressed, every person so offending shall forfeit a sum not exceeding two hundred rupees for every such offence.

Postage on unpaid letters, &c. to be paid by the receiver.

XXXVII. The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened, but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or packet shall be bound to pay the postage thereof. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the East India Company by any Post Master General, or by any Officer in charge of a Post Office, by order of a Post Master General, in the same manner as a fine may be recovered under this Act; and it shall

be lawful for the Officer in charge of any Post Office to withhold from the person so refusing, until such postage be paid, any other letter or packet addressed to that person, not being superscribed as on the public service. Provided always, that if a letter or other article shall appear to the satisfaction of the Post Master of the Office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the delivery Office may remit the postage.

Registered letters.

XXXVIII. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office and that a receipt shall be granted for such registered letter or article, and it shall be lawful for the Governor General in Council to direct that in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid on the letter or other article being delivered at the Post Office.

Express.

XXXIX. It shall be lawful for the Governor General of India in Council to fix and order any rate of postage to be charged for the conveyance of letters or other articles by express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Commanders of inward bound vessels carrying mails, how to proceed.

XL. When [illegible]el arrives by sea at any place within the [illegible]itories under the Government of the [illegible]st India Company at which there is a Post Office, the Commander of such vessel shall, as speedily as possible, cause every letter and packet on board of such vessel, which is directed to that place, and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same; and if there be on board any letter or packet directed to any other place, and not excepted from the exclusive privilege aforesaid, the said Commander shall, as speedily as possible, report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such P[illegible]st Master, and the receipt of such Post Master shall discharge such Commander

from all responsibility in respect of such letter or packet. Every Commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

Penalty.

XLI. Every person, being either the Commander of a vessel inward-bound, or any one on board such vessel, who shall, within the said territories, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office, shall forfeit for every such letter a sum not exceeding one hundred rupees.

Detention of letters on board prohibited.

XLII. For every letter delivered by the Commander of any ship in conformity with the directions of Section XL. of this Act, the Officer in charge of the Post Office shall pay to the said Commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the Commander of any vessel on [illegible] of the delivery of any letter, unless the claim of such C[illegible]nder shall be preferred before the vessel leaves the place at [illegible]hich the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Sections XL. XLI. and XLII. of this Act shall extend to any letter or packet conveyed by Her Majesty's Mails.

Bounty money.

XLIII. The Commander of every vessel leaving any place in the said territories by sea shall receive on board of such vessel every letter and packet which he shall be required so to receive by any officer of the Post Office, and shall give a receipt for such letter or packet; and every Commander of a vessel who shall wilfully disobey any direction contained in this Section shall be punished with a fine not exceeding one thousand rupees.

Commanders of outward bound vessels to receive mails on board.

XLIV. Clause 1. A list of all letters, packets, and parcels posted and addressed to persons who cannot be found, shall be prepared daily in every Post Office and exposed for not less than two weeks in the most conspicuous part of such Office; and all such letters, packets, and parcels, which shall have remained three weeks unclaimed in any Office, shall, if the sender's name and address are written on the cover, be returned to the Posting Office to be delivered to the sender free of all charge; all letters, packets, and parcels, of which the sender's name and address cannot be ascertained, unless they be opened, shall, after remaining unclaimed for three weeks as above, be forwarded to the Office of the Post Master General of the Presidency.

Unclaimed letters, &c.

Clause 2. The Post Master General or some person duly appointed for the purpose and bound to secrecy, shall immediately open all such letters, packets or parcels, and if the address of the sender can be discovered, shall enclose them in dead letter covers and return them to the sender. All letters, packets, and parcels, of which neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the Office of the Post Master General for one year, be destroyed.

To be opened, &c.

Clause 3. All money found in any unclaimed letter, packet, or parcel shall be paid into the Public Treasury, and all other valuable property found as above shall be sold by the Post Master General of the Presidency, or by some one duly authorized by him for that purpose, and the proceeds of the sale shall be paid into the Public Treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

Money, &c. found therein.

XLV. Letters, parcels, or packets rejected unopened by the person to whom they are addressed shall be forthwith sent to the Office of the Post Master General of the Presidency, who shall open the letter, parcel or packet; and all money, or other valuable property, which such letter, parcel, or packet may contain shall be disposed of in the manner prescribed in the preceding Section with respect to such money or property contained in unclaimed letters.

Refused letters, &c.

Franking abolished.

XLVI. On and after the passing of this Act, the privilege of sending and receiving letters and packets by the post, free of postage, whether official or otherwise, shall wholly cease; and all letters and packets, to which any such privilege now extends shall henceforth be charged with the same rates of postage as any other letters sent by the post. Provided that letters and packets on the public service, certified to be such by the signature of any public officer, authorized in that behalf by the Governor General of India in Council, shall be forwarded by the post as if they were duly stamped, and the postage due thereon shall be charged to the several public departments, from which such letters or packets are sent, in such manner as the said Governor General of India in Council shall direct.

Letters on the public service duly certified as such, how to be charged.

Penalty for false certificate.

XLVII. Every person who shall, for the purpose of defrauding the Post Office Revenue, wilfully certify, by writing, on any official or other letter or packet delivered at any Post Office for conveyance by post, that which is not true in respect of such letter or packet, or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver for conveyance by post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send, or permit to be sent by post, under color or pretence of an official communication, any letter, paper, writing or enclosure of a private nature; and every person who shall aid, abet, or conceal any of the offences in this Section above-mentioned, shall, for every such offence, forfeit a sum not exceeding five hundred rupees.

Letters, &c., suspected to contain contraband articles, or writing in contravention to this Act how to be dealt with.

XLVIII. If any Officer in charge of a Post Office shall suspect that any letter, parcel, or packet, lying for delivery at his Office, contains any contraband article, or any article on which duty is owing to Government, or that any letter, parcel, or packet lying for delivery at the Post Office, contains any writing or enclosure in contravention of the provisions of Sections VIII., XV., XVI., or XLVII. of this Act, it shall be lawful for such Officer to summon the person to whom the letter, parcel or packet is directed to attend

at the Post Office by himself or agent within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the Officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter, parcel, or packet in the absence of the person to whom it is addressed. Provided also, that in all cases the opened letter, parcel, or packet shall be subsequently delivered to the person to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same, and the circumstances connected therewith, shall be immediately reported to the Post Master General. It shall also be lawful for any Officer in charge of a Post Office to refuse to forward any parcel or packet through the Post Office by sea to any foreign port or to any place not on the continent of India, unless such parcel be accompanied by a Custom House Pass.

Government not responsible for loss

XLIX. The Government shall not be responsible for any loss or damage which may occur in respect of anything entrusted to the Post Office for conveyance, and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously, or fraudulently.

Penalty for secreting, opening, or making away with letters, &c. by persons employed in the Post Office.

L. Whoever being in the employ of the Government in the Post Office Department shall fraudulently secrete, make away with, or appropriate any letter, parcel, or packet which may have been entrusted to him, or anything contained in any such letter, parcel, or packet, or shall mutilate or break open any such letter, parcel or packet, or any banghy parcel or box, with the intention of fraudulently appropriating anything therein contained, shall be punished with imprisonment with or without hard labor, for a term not exceeding seven years, and shall also be liable to fine.

Penalty for detaining mails.

LI. It shall not be lawful for any person, unless acting by express order of the Government to detain, except for a criminal offence, a Post Office messenger, whilst carrying the mails, or to detain any

carriage or horse upon which the mails are being carried, or on any pretence to open a packet in transit from one Post Office to another; and every person who shall be guilty of any of the above-mentioned offences shall be punished with a fine not exceeding five hundred rupees.

Penalty for retaining letters &c. delivered by mistake.

LII. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or, being required to deliver up by an Officer of the Post Office, shall neglect or refuse to deliver up a post letter or other article which ought to have been delivered to any other person, or a post letter bag containing a letter or other article or packet which shall have been sent by the post, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Penalty for neglect on the part of persons employed to carry mails.

LIII. Every person employed to convey or deliver any post-bag, or any letter, parcel, or packet sent by post, who shall be guilty while so employed of any act of drunkenness, carelessness, or other misconduct, whereby the safety of any such bag or letter, parcel or packet shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, letter, parcel, or packet: or who shall not use proper care and deligence safely to convey or deliver any such bag, letter, parcel, or packet, shall be liable to a fine not exceeding fifty rupees; and any person employed to deliver a letter, parcel, or packet sent by the post, who shall not duly deliver the same, shall, within a reasonable time, not exceeding twenty-four hours, report the fact at the Post Office where he received such letter, parcel, or packet, and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

Penalty for embezzlement by persons employed in the Post Office.

LIV. Whoever being in the employ of the Government in the Post Office Department, and being entrusted to receive money for postage duty or any other public purpose, shall fraudulently appropriate the same, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

LV. Whoever being in such employ as is described in Sec-

Penalty for fraudulently altering marks on letters, &c. by persons employed in the Post Office.

tion LIV. shall fraudulently put any wrong mark on any letter, parcel, or packet, or shall fraudulently alter, remove, or cause to disappear, any mark or stamp which is on any letter or packet, or shall fraudulently use or place with or upon any letter or packet any stamp which shall have been removed from any other letter or cover, or shall aid, abet, or conceal any of the above-named acts, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Penalty for incorrectly preparing documents, or secreting documents by persons employed in the Post Office.

LVI. Whoever being in such employ as is described in Section LIV., and being entrusted with the preparing or keeping of any document shall, with a fraudulent intention, prepare that document incorrectly, or alter that document, or shall aid, abet, or conceal any of the above named acts, or secrete or destroy that document, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters without charging postage, by persons employed as above.

LVII. Whoever being in such employ as is described in Section LIV., shall send by the post, or put into any post bag, any unstamped letter, parcel, or packet, upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter, parcel, or packet, or shall aid, abet, or conceal any such acts, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Fines how to be recovered.

LVIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable, for such offence, by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, Magistrate, Joint Magistrate, or person lawfully exercising the powers of

Magistrate; and any person hereby made punishable by a Justice of the Peace shall be punishable upon summary conviction.

Conviction to be quashed on merits only. Form of conviction, &c.

LIX. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer charge to his Assistant.

LX. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only to any of his Assistants, or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Government may authorize Assistants and Deputy Magistrates to exercise certain powers.

LXI. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of the conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Fines how levied.

LXII. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by

distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers, and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security by way of recognizance or otherwise; and if upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months, where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case: the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

LXIII. A share not exceeding one moiety of every fine imposed and recovered under this Act may be awarded to the informer.

Moiety of fines to informer.

LXIV. No proceedings shall be taken for the recovery of any such fine without an order of Government, or an order in writing of the Director General of the Post Office, or of a Post Master General.

No proceedings to be taken without an order.

LXV. If any servant of the East India Company, who shall be employed by the said Company in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the said Company or any of

Servants of East India Company committing offences in Foreign States in alliance.

the said local Governments with the sale of postage stamps within the dominions of any Foreign Prince or State in alliance with the said Company, in which a post shall be established by the said Company, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done, by any person similarly employed, appointed, or entrusted as aforesaid within the territories under the Government of the said Company, such servant of the said Company shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within the said last-mentioned territories, and every such person may be tried, convicted, and punished, either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor General of India in Council to take cognizance of offences committed in such dominions by servants of the East India Company, or by any Court or Magistrate, or other competent Officer, in any part of the territories within the Government of the East India Company, in the same manner as if the offence had been committed in such part of the said territories.

Interpretation.

LXVI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word [illegible]" shall include a penalty or forfeiture, or a sum of money du[illegible]n a forfeited recognizance.

Governor [illegible]n Council may [illegible]ules.

LXVII. [illegible]all be lawful for the Governor General of India in Council to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, c[illegible]s, and restrictions according to which all letters and othe[illegible]icles shall be posted, forwarded, conveyed, and delivered.

Book[illegible]ent by post to or [illegible] the United King[illegible]

LXV[illegible] Unless the Governor General of India in Council shall otherwise order, nothing in this Act shall authorize the charge of postage upon printed books, magazines, reviews, or [illegible]phlets (whether British, Colonial, or Foreign) sent through [illegible] post from the United Kingdom to any place to which there shall be a post established by the East India Company, or from

such place to the United Kingdom, provided the British postage chargeable thereon be pre-paid.

Governor General in Council may exempt from postage letters sent to or from the United Kingdom.

LXIX. It shall be lawful for the Governor General of India in Council by an order in Council, to direct that postage shall not be chargeable under this Act on any letters or other articles to be specified in such orders sent through the post from any part of the British Dominions to any place to which there shall be a post established by the East India Company, or from such place to any part of the British Dominions, subject to such conditions, as to the pre-payment of British postage or otherwise, as the Governor General of India in Council may think fit.

District dawks.

LXX. It shall be lawful for the Governor General of India in Council to frame Rules for the management of all or any Zemindaree, Thannah, or other District dawks, and to declare, from time to time, what portions of this Act shall be applicable to such dawks and to persons employed in connection therewith.

Commencement of Act.

LXXI. This Act shall commence and take effect from and after the first day of October, 1854.

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extended by 21 of Act XXII of 1863

RAILWAYS.

ACT No. XVIII. OF 1854.

[*Received assent of G. G. on the 12th August*, 1854.

1. *Fares must be pre-paid. Traveller to be furnished with ticket which he must shew on demand and give up at end of journey, or pay fare.*

2. *Tickets for intermediate stations to be given back if insufficient room. Persons going furthest to have priority, except officers, &c., on duty.*

3. *Fraud on Company by evasion or attempt at evasion of fare to be subject to fine of Rupees* 50.

4. *Travellers entering or getting out of carriage in motion, &c. &c. to be liable to fine.*

5. *Person riding or attempting to ride on locomotive, &c. liable to fine.*

6. *Person smoking on premises or in carriage liable to fine.*

7. *Person in state of intoxication in carriage, or committing any nuisance &c. liable to fine.*

8. *Male person without excuse entering carriage or apartment appropriated to female liable to fine.*

9, 10. *Railway Company not answerable for luggage unless booked separately, nor* (10) *for certain valuable articles specified unless value be declared, &c.*

11. *Except for articles whose value must be declared, Company to be liable for gross negligence or misconduct, notwithstanding it may have given notice, &c. to the contrary.*

12. *Company may sell goods for unpaid charges upon them.*

13, 14. *Company entitled to demand a description in writing of number and quantity of goods brought to be carried, and* (14) *if such description is refused or a false one given a fine is incurred.*

15. *Company not bound to carry goods of a dangerous nature, and such goods to be marked as such outside, &c.*

16, 17, 18. *Person wilfully obstructing, &c. any officer of the Company in the discharge of his duty; or* (17) *trespassing on the Railway, &c. or* (18) *wilfully riding, leading or driving any animal on or across the Railway, liable to be fined.*

19. *Regulates crossings of the railway on any public road.*

20. *Railway to be fenced.*

21. *For animal trespassing on railway owner to be fined rupees ten.*

22. *Provides a penalty for specified injuries to railway carriage, &c.*

23. *Provides penalty for opening and using private gates on railway when engine is approaching and for not fastening such gates.*

24. *Unknown person committing offences may be apprehended and detained u[illegible] can be taken before a Magistrate.*

25, [illegible] 27. *Provides penalty for acts or omissions likely to endanger passengers,* [illegible]6) *a higher penalty if the act or omission is by a servant of the R. Company* [illegible] (27) *a penalty for being in a state of intoxication on duty.*

28. *Provi[illegible] penalty for rashly or negligently doing any act likely to endanger the safe[illegible] passengers.*

29. *Defines t[illegible] ligation of railway servants.*

30. *Offences [illegible]shable by all Js. P. and Magistrates, though committed out of jurisdict[illegible]*

31. *Convict[illegible] to be quashed only on the merits as they appear on the depositions, &c.*

32, 33. *M[illegible]rates may refer cases punishable by fine to assistants and deputies; who* (3[illegible]*y be authorized by local government to take cognizance without referenc[illegible] the Magistrate, &c.*

34. *Fi[illegible] be recovered by distress and sale of goods and chattels, &c.*

35. [illegible] *jurisdiction in Madras to heads of district police and ameens, and in Bo[illegible] to district or joint police officers, &c. over offences not punishable wit[illegible]e than 20 rupees.*

[illegible] *Payment of fares enforceable as fines.*

[illegible] *For certain offences persons may be apprehended by servants of R. Company without warrant, &c.*

38. *Interprets words, "Magistrate," "fine," &c.*

39. *Repeals Acts* 3 *and* 12, *of* 1853.

40. *All Indian Railways to be within the Act.*

41, 42. *R. Co. to report serious accidents to Government, which* (42) *may require a return of accidents.*

43. *Act and Rules to be fixed up at stations in English and Vernacular Languages.*

An Act relating to Railways in India.

Preamble.

Whereas it is expedient, that all Railways, which have been, or shall be opened by any Railway Company, under the superintendence and control of the East India Company, for the public conveyance of passengers or goods in any part of the territories in the possession and under the Government of the said Company, should be subject to the same regulations; It is enacted as follows:—

Fares to be pre-paid.

I. No person shall enter any carriage used on any such Railway, for the purpose of travelling therein, without having first paid his fare, and obtained a ticket. Every person desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of any said Company duly authorized to examine the same, and shall deliver up such ticket upon demand, to any of the Company's servants duly authorized to collect tickets. Any person not producing or delivering up his ticket, as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Passenger tickets to be given up on demand.

Penalty.

At intermediate Stations, fares and tickets to be conditional

II. At the intermediate Stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets shall be furnished. In case there shall not be room for all the passengers to whom tickets shall have been furnished, those who shall have obtained tickets for the longest distance shall have the preference; and

those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets. Provided that all Officers and troops of Her Majesty, or of the East India Company, on duty, and all other persons on the business of the East India Company, who, by virtue of any contract with the East India Company, shall be entitled to be conveyed on such Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which they shall have received their tickets.

Proviso.

III. Any person who shall defraud or attempt to defraud any such Railway Company, by travelling, or attempting to travel, upon such Railway, without having previously paid his fare; or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare; or by continuing his journey in or upon any of the carriages of the Company beyond the place for which he shall have paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof; or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such carriage; or who shall, in any other manner whatever, attempt to evade the payment of his fare, shall be liable to a fine not exceeding fifty rupees for each offence.

Penalty for fraud.

IV. Any passenger, who shall get into or upon, or attempt to get into or upon, or shall quit or attempt to quit any carriage upon any such Railway, while such carriage is in motion; or who shall ride or attempt to ride upon any such Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers, shall be liable to a fine not exceeding twenty rupees for each offence.

Fine for entering carriage in motion.

Or riding on the steps.

V. Any person other than the engine-man, and fire-man, and assistant fire-man, if any, who, without the special licence of the Superintendent of Locomotives, shall ride or attempt to ride

Fine for riding on engine, tender, or luggage-van.

upon any locomotive, engine or tender upon any such Railway; and any person other than the guard or breaksmen, who, without such licence as aforesaid, shall ride or attempt to ride upon such Railway, in or upon any luggage-van or goods-waggon, or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding twenty rupees for each offence.

Smoking prohibited.

VI. If any person shall smoke, either on the premises, or in or upon any of the carriages belonging to any such Railway Company except in places or carriages which may be especially provided for the purpose, he shall be liable to a fine not exceeding twenty rupees for each offence; and if any person persist in infringing this regulation after being warned to desist by any of the servants of the Company, such person, in addition to incurring the liability above-mentioned, may be removed by any of the servants of the Company from any such carriage, and from the premises of the Company, and shall forfeit his fare.

Penalty for intoxication or nuisance.

VII. Any person who shall be in a state of intoxication, or shall commit any nuisance or act of indecency in any Railway carriage, or upon any part of the premises of any such Railway Company; or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on such Railway, shall be liable to a fine not exceeding twenty rupees; and in addition to such liability the offender may be removed by any of the servants of the Company from any such carriage, and also from the premises of the Company, and shall forfeit his fare.

Penalty for entering private room or carriage.

VIII. If any special carriage, or portion of a carriage, or any private room or apartment, shall be provided by any such Railway Company for the exclusive use of females, any male person, who without lawful excuse shall enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid; or shall remain therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees, and may be removed therefrom, and also from the premises of the Company, by any of the servants of the Company, and shall forfeit his fare.

No liability for passengers' luggage.

IX. No such Railway Company shall in any case be answerable for loss or injury to any passengers' luggage unless it shall have been booked and seperately paid for.

No liability for loss of gold, silver, &c. unless in the case of special engagement.

X. No such Railway Company shall in any case be answerable for loss or injury to any gold or silver, coined or uncoined, manufactured or unmanufactured, or any precious stones, jewellery, watches, clocks or time-pieces of any description, trinkets, Government securities, bills of exchange, promissory notes, Bank-notes, orders or other securities for payment of money, Government stamp paper, postage stamps, maps, writings, title-deeds, paintings, engravings, pictures, plated articels, glass, china, silks in a manufactured or unmanufactured state, and wether wrought up or not wrought up with other materials, shawls, lace, or any of them contained in any parcel or package which shall have been delivered to such Railway Company, either to be carried for hire or to accompany the person of any passenger, unless the value and nature of such articles shall have been declared by the person or persons sending or delivering the same, and an increased charge for the safe conveyance of the same shall have been accepted by some person specially authorized to enter into such engagements on behalf of the said Railway Company.

Public notice or private contract not to limit liability.

XI. The liability of such Railway Company for loss or injury to any articles or goods to be carried by them other than those specially provided for by this Act shall not be deemed or construed to be limited or in any wise affected by any public notice given, or any private contract made by them; but such Railway Company shall be answerable for such loss or injury when it shall have been caused by gross negligence or misconduct on the part of their agents or servants.

Remedy for non-payment of the carriage of goods.

XII. If any person shall fail to pay on demand any sum due to any such Railway Company for the conveyance of any goods, it shall be lawful for the Company to detain all or any part of such goods, or, if the same shall have been removed from the premises of the Company, any other goods of such person which

shall then be on their premises, or shall thereafter come into their possession; and also to sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale, and out of the proceeds of the sale, to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold to the person entitled thereto; or the Company may recover any such sum by action at law.

Written account of goods to be given on demand.

XIII. The owner or person having the care of any goods which shall have been carried upon any such Railway, or shall be brought on to the premises of any such Railway Company for the purpose of being carried on the Railway, shall, on demand by any servant of the Company appointed to receive goods to be carried on that part of the Railway on which such goods shall have been carried, or shall be about to be carried, deliver to such servant an exact account in writing signed by him of the number or quantity and description of such goods.

Penalty for false account.

XIV. If any such owner or person as aforesaid shall wilfully fail to give such account to such servant of the Company, or if he shall wilfully give a false account thereof, he shall, for every such offence, be liable to a fine not exceeding fifty rupees for every ton of goods, or for any parcel exceeding one hundred weight; and to a fine not exceeding twenty rupees for any quantity of goods less than a ton or for any parcel less than one hundred weight.

Carriage of goods of a dangerous nature.

XV. No person shall carry upon any such Railway any dangerous goods, or be entitled to require any such Railway Company to carry upon such Railway any luggage or goods which, in the judgment of the Company or any of their servants, shall be of a dangerous nature; and if any person shall carry upon such Railway any dangerous goods, or shall deliver to such Railway Company any such goods for the purpose of being carried upon such Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to the book-keeper or other servant of the Com-

pany to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding two hundred rupees for every such offence; and it shall be lawful for any such Company or any of their servants to refuse to carry any luggage or parcel that they may suspect to contain goods of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same; and in case any such luggage or parcel shall be received by the Company for the purpose of being carried on the Railway, it shall be lawful for the Company or any of their servants to stop the transit thereof, until they shall be satisfied as to the nature of the contents of the baggage or parcel.

Penalty for obstructing servant in his duty.

XVI. Any person who shall wilfully obstruct or impede any officer or servant of the Company in the discharge of his duty on such Railway or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

Penalty for trespass.

XVII. Any person who shall trespass upon any such Railway, or upon any of the lands, stations, or other premises belonging to the Company, shall be liable to a fine not exceeding twenty rupees; and if any such person shall refuse to leave such Railway or premises on being requested to do so by any officer or servant of the Company, or by any other person on behalf of the Company, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway or premises by such officer, servant, or other person as aforesaid.

Penalty for driving an animal upon or across Railway.

XVIII. Any person who shall wilfully ride, lead, or drive upon or across any such Railway, any animal, except in directly crossing the said Railway at any road or place appointed for that purpose, at a time at which he shall be lawfully authorized so to do, shall be liable to a fine not exceeding fifty rupees for each offence.

Precaution if Railway crosses road.

XIX. If the Railway cross any public carriage road on a level, the Railway Company shall erect, and at all times maintain good and efficient gates, either across the Railway, or across the road on each side of the

Railway where the same shall communicate with the road, and shall employ proper persons to open and shut such gates; if such gates be across the road, they shall be kept constantly closed, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the Railway, and the gates shall be of such dimensions and so constructed as when closed to fence in the Railway, and prevent cattle or horses passing along the road from entering upon the Railway. If the gates be across the Railway they shall be kept closed, except when engines or carriages passing along the Railway shall have occasion to cross the road, and shall be of such dimensions and so constructed as when open to fence in the Railway, and prevent cattle, carriages, or passenger from entering upon the Railway. Provided that it shall be lawful for the local Government in any case to order that the gates shall be across the Railway as the Government may think fit, and in such case the gates shall be erected, maintained, and closed accordingly. If any Railway Company shall wilfully fail to comply with the provision of this Section, they shall forfeit a sum not exceeding two hundred rupees for each offence, and any Magistrate or Justice of the Peace may, in case any such gates be not erected or maintained, order the Company to erect and maintain the same within a time to be specified in the order, and in case of wilful failure on the part of the Railway Company to comply with such order, they shall be liable to a fine not exceeding two hundred rupees for every day that they shall wilfully fail so to do.

Proviso.

Penalty.

XX. Every such Railway Company shall be bound to erect and maintain good and sufficient fences on each side of their Railway; or, failing therein, shall be liable to a fine not exceeding fifty rupees for every offence; and it shall be lawful for a Magistrate or Justice of the Peace to order the Company to erect or repair any such fence within a time to be specified in the order, and upon failure of the Company to comply with such order, they shall be liable to a fine not exceeding fifty rupees for every day that they fail so to do.

Railway to be fenced. Penalty for not fencing.

XXI. The owner of any animal which shall trespass or stray upon any such Railway, or upon any lands belonging to such Railway Company, except for want of the erection or maintenance of any fence or gate which the Company is bound to erect and maintain, shall be liable to a fine not exceeding ten rupees for each animal; and it shall be lawful for the Company, or any of their servants, to take or drive every animal which shall be found so trespassing to the nearest Police Station, there to be detained until the highest amount of fine incurred by such trespass and the expense of feeding and keeping the animal be paid, or until a Magistrate shall otherwise order. A Magistrate may, upon proof of the trespass, cause such animal to be sold by public auction, and the proceeds of the sale, after deducting therefrom such fine or such a sum, not exceeding ten rupees for each animal, as the Magistrate shall award to be paid in lieu of the fine to which the owner is hereby made liable, and such further sum as the Magistrate shall order to be paid for the expenses of detaining, feeding, and selling such animal, shall be returned to the owner of the animal on demand.

Liability of owner of animal trespassing.

XXII. Any person who shall unlawfully and willfully remove or deface the number plates, or remove or extinguish any lamp on any carriage belonging to any such Railway Company; or shall wilfully or negligently damage or injure any carriage, engine, waggon, truck, warehouse, building, machine, fence, or any other matter or thing belonging to such Railway Company, shall be liable to a fine not exceeding fifty rupees.

Penalty for injury to carriage, &c.

XXIII. If any person for whose use or accommodation any gate shall have been set up by any such Railway Company on either side of such Railway, or any other person, shall open such gate, or pass or attempt to pass, or drive or attempt to drive any carriage, cattle, or other animal or thing across the said Railway at a time when any engine or train approaching along the same shall be in sight; or shall at any time omit to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge shall have passed

Penalty for opening or not properly shutting gates.

through the same, he shall be liable to a fine not exceeding fifty rupees.

Offender may be apprehended.

XXIV. If any person shall commit any offence hereby made punishable by fine, and the name and address of such person shall be unknown, or there be reason to believe that the offender will abscond, any officer or servant of the Company, or any police officer, or other person whom such officer or servant may call to his aid, may, without any warrant or written authority, lawfully apprehend and detain such offender until he can be taken before a Magistrate or other officer having jurisdiction over the offence, or shall give sufficient security for his appearance before such Magistrate or other officer, or shall be otherwise discharged by due course of law.

Penalty for wilful act or omission endangering a passenger.

XXV. Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause the safety of any person travelling or being upon any such Railway to be endangered, shall be liable to be transported beyond sea for the term of his life, or to be imprisoned, with or without nard labour, for any term not exceedeng seven years.

Penalty for wilful act or omission in a Railway officer.

XXVI. If any officer or servant of such Railway Company shall wilfully do any act which he is legally prohibited from doing, or shall wilfully or negligently omit to do what he is legally bound to do, and if, in consequence of such act or omission, the safety of any person travelling or being upon such Railway shall be endangered, such officer or servant shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years, or to fine, or to both.

Penalty for drunkenness or breach of duty by Railway officer.

XXVII. Any officer or servant of such Railway Company, who shall be in a state of intoxication whilst auctally employed upon the Railway, or any of the works connected therewith, in the discharge of any duty, and any officer or servant of such Company, who negligently shall omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding fifty rupees; and if the duty in any of the

cases in this Section above-mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer or servant shall, on conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Penalty for an act not wilful.

XXVIII. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger the safety of any person travelling or being upon such Railway, he shall, upon conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Rule of Construction of this Act.

XXIX. In the construction of this Act, every officer and servant of such Railway Company shall be deemed to be legally bound to do every thing necessary for, or conducive to the safety of the pulic, which he shall be required to do by any Regulation which shall be made by the Company, and allowed by the Governor General of India in Council, and of which Regulation such officer or servant shall have notice; and every such officer and servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such Regulation he shall be prohibited from doing; and every person employed by or on behalf of such Railway Company to do any act upon the Railway, shall be deemed to be a servant of the Company.

Jurisdiction of Magistrate, &c. to fine.

XXX. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay," Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not, and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

XXXI No conviction, order, or judgment of any Justice of

Conviction to be quashed on merits only—form of conviction, &c.

the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgmemt, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer case to his Assistant or Deputy.

XXXII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only to any of his Assistants, or to any Deputy Magistrate lawfully appointed to exercise the powers of a covenanted assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Deputy Magistrate, acting judicially.

Local Government may authorize Assistant, &c.

XXXIII. The Local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of conviction.

Proviso.

Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Fines how to be recovered.

XXXIV. All fines imposed under the authority of this Act for offences punishable by fine only by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers; and in case any such fine shall not be forthwith paid, any such officer may order

the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizance or otherwise; and if upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Jurisdiction in the Madras and Bombay Presidencies.

XXXV. The heads of district police and ameens of police in the Presidency of Madras, and district or joint police officers in the Presidency of Bombay, may punish, to the extent of the powers conferred upon them respectively in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

Enforcing payment of fare by passenger not producing ticket.

XXXVI. Payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under Section I. of this Act, may be enforced in the same manner as any fine imposed by this Act.

Apprehension of offenders.

XXXVII. Every person who shall be guilty of any offence mentioned in Sections XXV. XXVI. XXVII. and XXVIII., of this Act, may be lawfully apprehended without any warrant or written authority, by any servant or officer of the Company, or by any other person

whom such officer or servant shall call to his aid, or by any police officer of such grade, as shall by any law in force for the time being be entrusted in any case with the power of arrest without a warrant; and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace, or other officer lawfully authorized to punish the offender or to commit him for trial.

Construction.

XXXVIII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Magistrate," shall include a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate; words in the singular number shall include the plural; words in the plural shall include the singular: and words in the masculine gender shall include the feminine; and the word "fine" shall include a sum of money due upon a forfeited recognizance.

Acts Repealed.

XXXIX. Acts No. [illegible] of 1853 and No. XII. of 1853, are hereby repealed, except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

All Indian Railways to be within the Act.

XL. Every Railway within the said territories, used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act, and every Company to whom any such Railway shall belong, shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

Penalty for omitting to report accident.

XLI. Every such Railway Company shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company of any accident attended with serious personal injury, give notice thereof to the local Government; and if any such Company omit to give such notice, they shall forfeit the sum of fifty rupees for every day during which the omission to give the same shall continue.

Local Government may require a return of accidents.

XLII. The Local Government may order and direct any such Railway Company to make up and deliver to them a return of serious accidents occurring in the course of the public traffic upon

the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Government shall deem necessary and require for their information with a view to the public safety; and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such Company shall forfeit the sum of fifty rupees for every day during which the said Company shall neglect to deliver the same.

Penalty.

XLIII. A copy of this Act, and of the General Regulations, Time-Tables, and Tariff of charges, which shall from time to time be published by any Railway Company, with the sanction of the Local Government, shall be exhibited in some conspicuous place at each Station of every Railway, so that they may be easily seen and read; and all such documents shall be so exhibited in English and in the Vernacular language of the district in which the Station is situate, and in such other language, if any, as shall be required by order of the Local Government.

Copy and translation of Acts to be shown at Railway Stations.

FOREIGN SUGAR.

ACT NO. XIX. OF 1854.

[*Received assent of G. G. on the 26th August*, 1854.

Repeals prohibition under Acts 32, 1836; 15, 1839; 11, 1842; *and part of* 14, 1843 *of importation of Sugar into Bengal and N. W. P.*

An Act for removing the prohibition against the importation of Foreign Sugar.

Preamble.

Whereas by the provisions of a Statute passed in the 12th year of the reign of Her present Majesty, the duties to be levied on the importation of Sugar from different places into the United Kingdom, have been equalized; It is enacted as follows:—

Repeal of Acts prohibiting the importation of Sugar into Bengal, Madras, and the North Western Provinces.

I. Acts XXXII. of 1836, XV. of 1839, XI. of 1842, and so much of Act XIV. of 1843 as prohibits the importation of Sugar into any part of the North-Western Provinces of the Presidency of Bengal, are hereby repealed.

AGENT TO GOVERNOR GENERAL.

ACT No. XX. OF 1854.

[*Received assent of G. G. on the 26th August*, 1854.

1. *Repeals part of s. 4, R. 13, 1833.*
2. *Duties of Agent of G. G. to be vested in such officer as may be appointed.*

An Act to amend Regulation XIII. of 1833 of the Bengal Code.

Preamble.

Whereas it is expedient to amend the provisions of Regulation XIII. of 1833 of the Bengal Code; It is enacted as follows:—

Repeals part of Regulation XIII. of 1833.

I. So much of the said Regulation as prescribes that the Officer in whom the duties specified in Section IV. of the said Regulation shall be vested, shall be denominated "Agent to the Governor General" is repealed.

Officer appointed by the Local Government may exercise all powers by that Regulation vested in the Agent to the Governor General.

II. Such duties shall be vested in any Officer whom the Local Government shall, from time to time, appoint for that purpose, and such Officer when appointed, and his assistants respectively, may exercise, within the tracts of country separated as prescribed in the said Regulation, all the powers which by the said Regulation the Agent to the Governor General and his assistants respectively may exercise, and all the provisions in the said Regulation relating to the Agent to the Governor General and his assistants, shall be applicable to the Officer to be appointed as aforesaid and his assistants respectively.

BANKS OF BENGAL, MADRAS AND BOMBAY.

Repealed by IV of 1862

ACT NO. XXI. OF 1854.

[*Received assent of G. G. on the 26th August*, 1854.

1. *Empowers Secretary, &c. to draw, accept and endorse Bills, P. Notes and B. post bills and to transfer and endorse Government Securities.*
2. *Empowers Bank to lend on Security of Railway Shares, to extent of ¾ of value.*

An Act to amend the Law relating to the several Banks of Bengal, Madras, and Bombay.

For the purpose of removing doubts, and of extending the powers of the chartered Banks of Bengal, Madras and Bombay, It is enacted as follows:—

Preamble.

I. The persons for the time being holding the Offices of Secretary and Treasurer, or of Secretary alone, or of Deputy Secretary of the Bank of Bengal, of the Bank of Madras, or of the Bank of Bombay, are hereby severally empowered, for and on behalf of the Bank under which they hold either of such offices, to endorse and transfer Government Securities standing in the name of the Bank, to draw, accept and endorse Bills of Exchange, Promissory Notes, and Bank Post Bills connected with the current and ordinary business of the Bank, and to sign all other documents connected with such business.

Secretary, &c. empowered to draw and endorse Bills, &c. and to sign documents for the Banks.

II. It shall be lawful for any of the said Banks to lend money on the security of shares in such of the incorporated Indian Railway Companies as hold a guarantee from the East India Company with regard to interest: provided that no such loan shall in any case exceed in amount three-fourths of the paid up value of the shares, on the security of which the loan is made, and in every case such shares shall be transferred to the Bank by which the loan is made either absolutely, or by way of mortgage.

Banks may lend money on shares of guaranteed Railway Companies.

Proviso.

BRITISH SUBJECTS.

ACT NO. XXII. OF 1854.

[*Received assent of G. G. on the 23rd September*, 1854.

Repeals parts of 53 *Geo.* 3, *c.* 155, *s.* 105 *and of s.* 2, *B. R.* 15, 1806, *and of s.* 2, *M. R.* 4, 1809.

An Act to repeal certain parts of the 53, George 3, c. 155, of Section II. Regulation XV. of 1806 of the Bengal Code, and of Regulation IV. of 1809 of the Madras Code.

Whereas by Letters Patent dated the 1st day of March 1851, all amerciaments, fines, forfeitures, and penalties belonging to the Crown, were granted

Preamble.

to the East India Company, and it is no longer necessary that fines realized by Magistrates, under the provisions of the Statute 53, George 3, c. 155, s. 105, should be remitted to the Clerk of the Crown; and whereas also it is no longer necessary that, in all cases in which European British Subjects are concerned, the Magistrates should report their proceedings to the Government; It is enacted as follows:

Repeals certain parts of Statute 53, George 3, c. 155, s 105, of Section II. Regulation XV. of 1806 of the Bengal Code, and of Regulation IV of 1809 of the Madras Code.

So much of the Act of Parliament 53, George 3, c. 155, s. 105, as requires that, in all cases of Conviction of a British Subject under the provisions contained in that Section, the Magistrate, before whom such conviction takes place, shall forthwith transmit copies of such conviction, and of all depositions and other proceedings relative thereto, to the Government to which the place where the offence was committed is subordinate; and so much of the same Section of the above-mentioned Act, as prescribes that any part of any fines shall be transmitted by the Magistrate to the Clerk of the Crown or other Officer to whom it belongs to receive fines in any of Her Majesty's Courts of Oyer and Terminer and Jail Delivery, and that such fines shall be disposed of in the same manner as other fines imposed by such Courts; and so much of Section II. Regulation XV. of 1806 of the Bengal Code and Section II. Regulation IV. of 1809 of the Madras Code, as requires the Magistrate, by whom any European British Subject is held to bail or committed to take his trial before Her Majesty's Supreme Court at Calcutta, to transmit copies of the original depositions, together with translations of any papers not being in the English language, to the Secretary to Government, are hereby repealed.

MALABAR.—THE MOPLAS.

ACT No. XXIII. OF 1854.

[*Received assent of G. G. on the 28th October,* 1854.

Recites the commission of murderous outrages by the Moplas.

1. *Authorizes the G. in C. of Madras to proclaim Malabar as under the provisions of this Act.*

2. *Mopla murdering or attempting to murder any person of other class, or any person joining in or accessary to outrages by Moplas to forfeit property, the property also of those who have been killed in the course of such outrages when fact found by post mortem inquest.*

3 *Authorizes burial or burning of bodies of Moplas within the precincts of Jail.*

4. *Powers of G. in C. under M. R.* 2, 1819 *and Act* 5, 1841 *as to confinement or trial of persons, extended to offenders under this Act.*

5. *Magistrate to apply to G. in C. for orders respecting any Mopla, &c. against whom he wishes to proceed under last Section.*

6. *If after self-banishment, in commutation for trial, party returns, he shall be liable to imprisonment, &c.*

7. *Authorizes the Magistrate, with consent of G. in C., to levy fine on the district to which any offending Mopla may belong.*

8. *Fines under this Act to be levied like public Revenue and Magistrate not to be liable to any civil action.*

9. *Empowers G. in C. to annul proclamation.*

10. *Act to continue in force till* 31*st December,* 1859.

An Act for the suppression of the Outrages in the District of Malabar, in the Presidency of Fort St. George.

Preamble.

Whereas in the District of Malabar in the Presidency of Fort St. George, murderous outrages have been frequently committed by persons of the class called Moplas against inhabitants of those Districts belonging to other classes, the offenders in such outrages intending therein to sacrifice their own lives; and the general law of the country is not adequate to suppress such outrages: It is enacted as follows:

Governor in Council empowered to proclaim the whole or any part of Malabar to come under this Act.

I. It shall be lawful for the Governor in Council of Fort St. George, whenever he shall see fit, by a proclamation published in the *Fort St. George Gazette,* from time to time, to declare the whole or any part or parts of the District of Malabar to be subject to the operation of all or any of the following provisions.

The property of Moplas convicted of outrages to be forfeited.

II. Any Mopla, who murders or attempts to murder any person belonging to any other class, or who takes part in any outrage directed by Moplas against persons of any other class, wherein murder is committed or is attempted to be committed, or is likely to be committed; and any person who shall procure

or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same; or who, after having committed, or having been accessary to any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him; or who shall join or assist, or incite or encourage other persons to join or assist in such resistance; shall, on conviction thereof, be liable not only to the punishment provided by the existing law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried; and whenever any person shall be killed in the act of committing any such offence as aforesaid or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court which would have had cognizance of the offence, if the offender could have been brought to trial, to proceed, on the application of the Magistrate, to hold an inquest into the circumstances of the death of the offender: and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government.

Also the property of persons killed in committing outrages.

III. If any mopla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court, by which such offender is convicted, by its sentence, to direct the body of such offender to be burned or buried within the precincts of the Jail, as it shall see fit; and in like manner, if any Mopla shall be killed in the act of committing any such offence as aforesaid, or having committed any such offence as aforesaid shall be killed in resisting a lawful attempt to apprehend him; it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the Jail as the said Magistrate shall see fit.

Bodies of offending Moplas sentenced to death, or killed, may be burned or buried within the precincts of the Jail.

IV. The Governor in Council shall have, with respect to

Powers of Governor in Council as to the confinement or trial of persons under this Act.

the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by Regulation II. of 1819 of the Madras Code and by Act V. of 1841, respectively, regarding the confinement or trial of persons charged with or suspected of State offences; and the provisions of the said Regulation and Act, respectively, shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this Section.

Magistrate how to act in respect to persons against whom he thinks there are grounds of proceedings.

V. The Magistrate of the District may cause any Mopla or other person, against whom there are in his judgment grounds of proceeding under the last Section, to be apprehended, and after such enquiry as he may think necessary, may detain such Mopla or other person in safe custody until he shall have received the orders of the Governor in Council, to whom in all such cases he shall report his proceedings without unnecessary delay.

Penalty for remaining or returning within forbidden limits.

VI. If with the previous consent of the Governor in Council any person, against whom the Governor in Council shall think fit to proceed under Section IV., shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the continent of India or of any part thereof, and shall in breach of his said undertaking, and without the permission of the Governor in Council, remain or return within such limits, he shall be liable to be punished with imprisonment, with or without hard labor, for a period which may extend to seven years, or with fine or both.

Levy of compensation or fine.

VII. Whenever any such outrage, as is specified in the 2nd Section of this Act, the same being punishable under this Act, shall have been committed by any Mopla or Moplas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall authorize from all the Moplas within the

umshum or the several umshums to which the perpetrator or perpetrators, or any one of such perpetrators of such outrages, shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Moplas within such umshum or umshums, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned by such death; and, subject to such compensation, to the use of the Government.

Fines, &c. how to be levied.

VIII. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the Public Revenue may be realized by a Collector; and no action shall lie in any Civil Court against the Magistrate in respect of any fine imposed, or any assessment made under this Act, or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

Magistrate exempted from action.

Parts of District may be withdrawn from the operation of the Act, and again made subject to it.

IX. It shall be lawful for the Governor in Council, by such proclamation as aforesaid, from time to time, to withdraw from the operation of the provisions of this Act any part or parts of the said District which he may previously have declared to be subject thereto; and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

Act how long to continue in force.

X. The provisions of this Act shall continue in force until the 31st December 1859.

MALABAR WAR-KNIVES.

ACT No. XXIV. OF 1854.

[*Received assent of G. G. on the 28th October*, 1854.

1, 2. *Prohibits the use of the Ayudha Cutty or war-knife in Malabar, and requires such knives to be given up: and* (2) *establishes fine for possessing, buying, selling or manufacturing such knife or similar weapon.*

3. *Empowers Magistrate to cause search to be made for such weapons, &c.*

An Act to prohibit the possession of certain offensive Weapons in Malabar.

Whereas it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar in the Presidency of Fort St. George, It is enacted as follows:

Use of Ayudha Cutty or any similar weapon prohibited.

I. The use of the Ayudha Cutty or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar; and every person possessing a weapon of the description so designated, or any similar weapon, is required to surrender it, on or before the date which shall be appointed for the above provisions taking effect, and according to such orders as shall be published in that behalf by the Magistrate.

Such weapons to be surrendered by a certain date.

Fine for possessing, purchasing, selling, or manufacturing, after date.

II. After such date, any person, who shall be found in possession of an Ayudha Cutty, or war-knife, or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, any Ayudha Cutty or war-knife, or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty Rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months, or to both; and the said war-knife or weapon shall be confiscated.

Magistrate may search for prohibited weapons.

III. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police Officers, acting under his warrant in any house or other place in which any Ayudha Cutty or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act; and any such Ayudha Cutty or war-knife, which shall be found, may be seized and confiscated. It shall also be competent

to the Magistrate, at his discretion, to delegate to any of his European Assistants the powers conferred by this Section. Any person, who shall resist or oppose such search or seizure, or forcibly withstand any Police Officer charged with such warrant, shall be liable to the same penalties, as if such person had opposed or resisted the execution of a warrant for the search after stolen goods.

Penalty for resisting search.

BENGAL.--MOFUSSIL TREASURY WARRANTS.

ACT No. XXV. OF 1854.

[*Received assent of G. G. on the 4th November*, 1854.

Recites that the issue of warrants for payment of money out of treasuries is unnecessary. Repeals s. 12, *B. R.* 2, 1793; *s.* 12 *B. R.* 5, 1795; *s,* 11. *B. R.* 25, 1803; *and part of s.* 18, *B. R.* 8, 1805. *But written order of the Collector necessary.*

An Act for discontinuing the practice of issuing Warrants for the payment of money from the Treasuries of the Collectors.

Preamble.

Whereas the issue of Warrants for the payment of money from the Treasuries of the Collectors is unnecessary, It is enacted as follows:

Section 12 Regulation II. of 1793, Section 12 Regulation V. of 1795, Section XI Regulation XXV. of 1803, and part of Section 18 Regulation VIII. of 1805 of the Bengal Code, repealed.

Section XII. Regulation II. of 1793, Section XII. Regulation V. of 1795, Section XI. Regulation XXV. of 1803, and so much of Section XVIII. Regulation VIII. of 1805 of the Bengal Code as extends Section XI. Regulation XXV. of 1803 to the Provinces and Territories specified in Section III. of that Regulation, are hereby repealed. Provided, however, that no money shall be paid away from any such Treasury, except under the written order of the Collector or other officer in-charge of the Treasury.

Proviso.

BENGAL.—COURT OF WARDS.—EDUCATION.

ACT No. XXVI OF 1854.

[*Received assent of G. G. on the 11th November*, 1854.

1. *Vests in Collector the superintendence and control of the education of male minors whose property is under the Court of Wards.*

2, 3 *Empowers Collector to direct where the minor shall reside for the purposes of education, &c. or (3) to direct him to have a private education.*

4. *Expenses of education to be defrayed out of estate.*

5. *Court of wards may remove guardians of male minors for disobedience to orders of Collector.*

6. *Guardian after removal to remain liable to account to Collector.*

7. *Vests the right of custody of male minors in the person appointed with the sanction of the Court of Wards.*

8. *Gives Court of Wards right of revising of orders of Collector and gives appeal to Commissioner against orders of Collector.*

An Act for making better provision for the education of male minors subject to the superintendence of the Court of Wards.

Preamble.

Whereas the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons, It is enacted as follows:

General control and superintendence of the education of male minor wards vested in Collectors of Revenue.

I. The general superintendence and control of education of every male minor, whose property has been or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation which now is or hereafter shall be in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the zillah or district wherein such minor's estate is situate; or if such minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors to have power to cause male minor wards

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act to

to be educated at any school or college.

direct that such minor shall reside, either with or without his guardian at the sudder station of the district, or at any other place within the said Presidency, and shall attend for the purposes of education, such school or college as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

Or in certain cases to cause such wards to be educated privately

III. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the Estate are sufficient for that purpose, cause, such minor to be educated by a private tutor, properly qualified, either at the family residence of such minor or at the sudder station or elsewhere within the said Presidency; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act, to be paid out of the profits of the ward's estate

IV. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school fees or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Court of Wards.

Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office, any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards, and if in any such case the guardian to

be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards, at its discretion, either to remove him from both the said offices, or to continue him in that of Manager only.

Continued liability of guardian removed: powers and responsibilities of new guardian.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship; and every guardian appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

The right to the custody of the person of a male minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

VII. The right to the custody of the person of any male minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such minor, or in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

Appeal from the orders of a Collector to lie to Commissioner of Revenue acting as a Court of Wards.

VIII. All orders and proceedings of a Collector under the provisions of this Act, shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

NAZIM OF BENGAL.

ACT No. XXVII. OF 1854.

[*Received assent of G. G. on the* 11*th November*, 1854.

1. *Repeals s.* 10, *B. R.* 16, 1793; *B. R.* 19, 1805; *B. R.* 16, 1806; *and B. R.* 19, 1825.

2, 3. *Regulates service of Civil process and* (3) *of criminal process within the Nazim's palace.*

4. *Certificate of execution of process to be deemed prima facie true.*
5. *Empowers Government of Bengal to define limits of the palace precincts.*

An Act to amend the Law relating to the Nazim of Bengal.

Preamble.

Whereas it is expedient to repeal such parts of the Bengal Regulations as relate to the Nazim of Bengal, his servants, and relations, and to make better provision for the execution of process within the precincts of the palace of the Nazim at Moorshedabad, It is enacted as follows:

Regulations repealed.

I. Section X. Regulation XVI. of 1793, Regulation XIX. of 1805, Regulation XVI. of 1806, and Regulation XIX. of 1825 of the Bengal Code, are hereby repealed.

Execution of Civil process within the Nazim's palace.

II. When any process, issued by any Civil Court, Collector, or other Revenue Officer, in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process shall be transmitted to the superintendent of the affairs of the Nizamut, or other officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut; and such superintendent or other officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same, with a certificate of what shall have been done thereon.

Execution of Criminal process within the Nazim's palace.

III. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process may, at the discretion of the Court or officer issuing the same, be transmitted to the Superintendent of the affairs of the Nizamut, or other officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut; and in such case, such Superintendent or other Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

IV. Every certificate returned by the Superintendent or other officer aforesaid, under this Act, shall, in all cases, be admitted as *primâ facie* proof of the truth of the matter stated therein.

Proof of execution.

V. It shall be lawful for the Government of Bengal to define, for the purposes of this Act, by notification in the *Calcutta Gazette*, the limits of the precincts of the palace of the Nazim at Moorshedabad; and from time to time in like manner to alter such limits.

Limits of the palace how to be defined.

CALCUTTA.—MUNICIPAL.

ACT No. XXVIII. OF 1854.

[*Received assent of G. G. on the* 18*th November*, 1854.

1. *Repeals so much of Act* 10, 1852 *as relates to election, &c. of Commissioners.*

2 *Continues present Commissioners till* 31*st December* 1855, *or until new Legislative provision be made.*

An Act to continue the Commissioners for the Improvement of the Town of Calcutta, pending the consideration of an Act to amend Act X. of 1852.

Preamble.

Whereas Act X. of 1852, for constituting Commissioners for the Improvement of the Town of Calcutta, has been found ineffectual and inconvenient for the purposes thereof, and it is expedient that the constitution of the said Commission be amended, and that in the meantime no new election of Commissioners be made in pursuance of the said Act; It is enacted as follows:

Repeal of so much of Act X. of 1852 as relates to the election of Commissioners.

I. So much of Act X. of 1852 as relates to the election and time of holding office of the Commissioners for the Improvement of the Town of Calcutta, is repealed.

Present Commissioners to continue in office until the 31st December 1855, or until further Legislative provision.

II. The Commissioners for the Improvement of the Town of Calcutta as now constitued, shall continue to be such Commissioners, and shall have and exercise all the powers entrusted to them under Act X. of 1852 or any other Act, until the 31st December 1855, or until other provision

shall be made in that behalf by the Legislative Council of India; and if in the mean time any vacancy, from any cause whatever, happen among the said Commissioners, it shall be lawful for the Lieutenant-Governor of Fort William in Bengal to appoint a person to fill such vacancy, and the Commissioner so appointed shall have all the powers and privileges conferred on or belonging to the Commissioner in whose stead he shall be appointed.

SALTPETRE.

ACT No. XXIX. OF 1854.

[*Received assent of G. G. on the* 18*th November*, 1854.

1. *Prohibits exportation of Saltpetre till otherwise ordered by G. G. in C.*

2. *Renders liable to seizure Saltpetre attempted to be exported in contravention of this Act.*

An Act to prohibit the Exportation fo Saltpetre to certain Ports in Europe.

Preamble.

Whereas it is expedient that the exportation of Saltpetre to any port on the Continent of Europe North of Dunkirk should be prohibited during the continuance of hostilities between the Allied Powers and the Emperor of Russia; It is enacted as follows:

Export of Saltpetre from India to any European Port North of Dunkirk, prohibited.

I. It shall not be la[illegible] [illegible]il the Governor Gene[illegible] in Co[illegible] order [illegible] export Saltpetre from any part [illegible] rritories in the possession and under the Government of the East India Company, to any port on the [illegible]tinent of Europe North of Dunkirk.

Penalty.

II. If any person attempt to export Saltpetre contrary [illegible] provisions of this Act, the same shal[illegible] seized and confiscated.

ARRACAN, PEGU, MARTABAN, TENASSERIM PROVINCES.—CUSTOMS' DUTIES.

ACT No. XXX. OF 1854.

[*Received assent of G. G. on the 2nd December*, 1854.

1. *Repeals part of Act* 7, 1848, *extends s.* 3 *of Act* 6, 1848 *to Arracan and Tenasserim: also repeals ss.* 18, 19, 35 *of Act* 1, 1852 *as respects those Ports.*

2. *Extends Bengal Import duties to those Eastern Provinces.*

3. *Establishes Import Duty on Salt at 8 annas a maund, with power to reduce it, &c.*

4. *Extends Bengal Export Duties to these Eastern Provinces, except as to Teak Timber, and except as to imported goods which have paid Frontier Import Duty.*

5. *Extends to these Eastern Provinces Bengal rules relating to Customs' Duties, but vests the authority under them in the G. G. in C.*

6, 7. *Declares what goods shall be free and what dutiable when imported by the Irrawaddy and Sitang from beyond the northern frontier: and what duty shall be payable on foreign Teak and Spirituous Liquors, and (7) extends same duty to Teak floated down any river in Martaban, &c.*

8. *Empowers the G. G. in C. to make rules for transit of Teak Timber.*

9. *Establishes export duties on specified articles exported to Northward by the Irrawaddy, &c.*

10. *Empowers G. G. in C. to fix value of article liable to ad valorem duties.*

11. *Prohibits the import of Arms, Ammunition and Sulphur: and the export of the same into Foreign Territory without license.*

12. *Act to commence when.*

Schedule *of duties.*

An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.

Preamble.

Whereas it is expedient that the Arracan, Pegu, Martaban, and Tenasserim Provinces should be placed, as nearly as possible, in the same position with the Provinces of Bengal and Orissa, with respect to the levy of Duties of Sea Customs; that duties of River Customs should be levied on the Northern Frontier of Pegu; that the floating down of Teak Timber, and the duties payable thereon, in certain of these Provinces, should be regulated by law; and that the exportation of munitions of war from any of these Provinces into Foreign States should be prohibited; It is enacted as follows:

Acts repealed.

I. So much of Act VII. of 1848 as excepts the Ports of Arracan and Tenasserim from the operation of Section III. Act VI. of 1848; and so much of Sections XVIII. XIX. and XXXV. of Act I. of 1852 as relates to the said Ports, are repealed.

Duty on imports by Sea.

II. With the exceptions mentioned in Section III. of this Act, all goods imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, from any Port not subject to the Government of the East India Company, or from the Port of Aden, or from any

Port in the Straits of Malacca, shall be charged with the same rates of duty as those which are or shall be charged on goods of the same description imported from the same Ports into the Provinces of Bengal or Orissa.

Special Duty on Salt imported by Sea.

III. Salt imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, shall be charged duty at the rate of eight annas a maund: provided that it shall be, in respect to Arracan, in the power of the Governor or Lieutenant-Governor of Bengal, and, in respect to Pegu, Martaban, and Tenasserim, in the power of the Governor General of India in Council, to fix from time to time, upon Salt imported by Sea, any lower rate of duty that may be thought proper, in order to equalize the rate of Customs Duty upon Salt imported by Sea into any of the said Provinces with the rate of Excise Duty on Salt manufactured in the same Province.

Special Duty on Opium imported by sea.

Opium imported by Sea into any part of the said Provinces shall be charged duty at the rate of twenty-four Rupees a seer, excepting Opium purchased at a Government Sale in Calcutta, which shall be free: provided that no Opium of any description shall be landed in the Provinces aforesaid without a pass from the Collector of Customs at the Port of landing, in defau[illegible] which such Opium shall be seized and confiscated.

Duty on Exports by sea.

IV. All goods, except Teak Timber, exported b[illegible]ea from any part of the Arracan, Pegu, M[illegible]rtaban, and Tenasserim Provinces, to an[illegible]ort not subject to the Government of the East India Comp[illegible] or to the port of Aden, or to any Port in the Straits of Malacca, shall be charged with the same rates of duty as those wh[illegible]re or shall be charged upon goods of the same description expo[illegible]o the same Ports from the Provinces of Bengal and Orissa. [illegible]vided that when goods, which have paid River Frontier import duty under Section VI. of this Act, are exported by Sea, under a certificate of the Collector of River Frontier Customs passed by the Collector of Sea Customs, the amount of River Frontier import Duty so paid, shall be accepted in full payment of the Sea Export Duty chargeable under this Section.

V. All the laws and rules relating to the levy of duties of

Bengal Customs Law to apply

Customs, which are or shall be in force in the Provinces of Bengal and Orissa, shall apply to the levy of duties of Sea Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces; provided that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Governor or Lieutenant Governor of Bengal, shall be vested, in respect of Pegu, Martaban, and Tenasserim, in the Governor General of India in Council, and that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Board of Revenue, shall, in respect of Pegu and Martaban, be vested in the Commissioners of those Provinces respectively.

River Frontier duty on Imports.

VI. All goods, excepting Bullion and Coin, Precious Stones and Pearls, Cotton Wool, Grain and Pulse, and Living Animals, which shall all be free; and excepting Spirituous Liquors and Teak Timber, for which special rules are provided, imported by the River Irrawaddy or the river Sitang from beyond the northern frontier of Pegu; shall be charged, on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, with a Duty of Customs of ten *per centum ad valorem.* Spirituous Liquors,

Special Duty on Spirits.

on passing either of the said Custom Houses, shall be charged import duty at the rate of one Rupee a gallon. Teak Timber, on passing either

Special duty on Teak.

of the said Custon Houses, shall be charged import duty at such rate as shall be fixed from time to time by the Governor General of India in Council in order to equalize the rate of duty charged on foreign Teak Timber so imported, with the price that may be fixed from time to time for permission to appropriate and remove Teak Timber of the same description growing in the forests of Pegu which are State property.

Special Duty on Teak in Martaban and Tenasserim.

VII. Teak Timber floated down any river in the Martaban or Tenasserim Provinces, shall be charged with the same duty as that chargeable for the time being under Section VI. on Teak Timber passing a River Frontier Custom House, and this duty shall be levied at such places on the said rivers as the Governor General of India in Council shall appoint.

Rules for Teak floated.

VIII. It shall be lawful for the Governor General of India in Council, in respect of the Pegu, Martaban, and Tenasserim Provinces, to promulgate such rules for the time and manner of the floating of Teak Timber within the said Provinces respectively, as may to him seem fit; and to prescribe what descriptions of Teak Timber may lawfully be floated, and what descriptions of Teak Timber may not lawfully be floated, within the said Provinces respectively. And all Teak Timber found floating contrary to such rules or orders, shall be confiscated.

River Frontier Duty on Exports.

IX. Goods of the descriptions specified in the Schedule annexed to this Act, exported beyond the northern frontier of Pegu by the river Irrawaddy, or the river Sitang, shall be charged export duty on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, according to the rates fixed in the said Schedule; and the said Schedule shall be taken to be a part of this Act.

Valuation of Goods chargeable *ad valorem*.

X. The Governor General of India in Council shall have power to fix from time to time the valuation at which any article liable to *ad valorem* duty on passing a River Frontier Custom House shall be valued in order to the assessment of duty: and in respect of goods passings such a Custom House, which are not so valued, in case of dispute respecting their value, the Collector of Customs of the station shall have power to call on the possessor of the goods to assign the value thereof: and thereupon the Collector of Customs shall have power, if he pleases, to purchase such goods on account of Government, at the value so assigned; paying for such goods forthwith, after deducting the duty due upon them according to the value so assigned.

Special Rule for Arms, Ammunition, & Sulphur.

XI. Arms, Ammunition, or Sulphur shall not be imported by sea into the Arracan, Pegu, Martaban, or Tenasserim Provinces; nor exported by land or by river into any Foreign Territory, from any of those Provinces; without a license from a Collector of Customs, or other Officer having charge of the collection of Customs; and such articles, if an attempt be made so to import or export them, shall be confiscated.

XII. This Act shall commence and take effect from and after the first day of January 1855.

Commencement of Act.

SCHEDULE.

REFERRED TO IN SECTION IX OF THIS ACT.

Enumeration of Goods.	*Rate of Export Duty.*
Rice	An anna a basket.
Paddy	Half an anna a basket.
Salt	Four annas a maund.
Betel-Nut	Ten *per centum ad valorem.*
Nyapee; dried, smoked, salted, and preserved fish and fish roes	Ten *per centum ad valorem.*

ENGLISH LAW.—FINES, AND COMMON RECOVERIES.

ACT NO. XXXI. OF 1854.

[*Received assent of G. G. on the 16th December,* 1854.

1. *Abolishes all real actions.*

2. *Empowers tenants in tail, &c. to dispose of or enlarge their estate by deed.*

3, 5, 6. *Empowers married woman to dispose of, &c. her estate by deed acknowledged* (5) *with the concurrence of her husband and the deed to be acknowledged; or* (6) *if husband be lunatic, &c. or separated, husband's concurrence may be dispensed with.*

4. *Money to be invested in lands to be disposed of as the interest in lands might be.*

7. *Empowers Supreme Court to appoint Commissioners to take acknowledgments.*

8, 9. *Directs in what way acknowledgments of married woman shall be taken: and* (9) *what memorandum shall be signed by Judge, &c.*

10. *Deeds of acknowledgment to take effect from date of acknowledgment,*

11. *Signature and authority of Judge, &c. taking acknowledgment need not be proved, and acknowledgment to be deemed duly taken.*

12. *Saves all powers of alienation otherwise than by levying fine, &c. created prior to this Act.*

13. *In future, dispenses with the necessity of trustees to preserve contingent remainders.*

14. *Simple deed to be sufficient for conveyance of any interest in immoveable property.*

15. *No conveyance to operate tortuously.*

16. *Makes words of limitation unnecessary to pass the whole estate. Gift, &c. to a man, to be to him for ever, unless by construction a different intent appears.*

17. Bona fide *purchasers of trust property not bound to see to application of purchase money.*

18. *Act to apply only under English Law.*

19. "*Supreme Court*" *to include the Court of Straits Settlements.*

An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.

Preamble.

Whereas it is expedient, in cases to which the English law applies, to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money, it is enacted as follows:

Real actions, &c. abolished.

I. All real actions, fines and common recoveries, except such as may be in progress when this Act comes into operation, are abolished.

Tenants in tail may dispose of or enlarge his estate by simple deed, &c.

II. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein; and every tenant; in tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned. Provided that every disposition under this Section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made.

III. Every married woman who, either alone or jointly with

A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, &c.

her husband, is possessed of or entitled to any estate or interest in, or any power to be exercised over any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estate, interest, or power, as fully and effectually as if she were an unmarried woman.

Provision to apply to money subject to be invested in lands.

IV. The provisions of the last two preceding Sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Execution of deeds by married women.

V. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual, unless her husband concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.

If husband be lunatic, &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.

VI. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate, interest, or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent, or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause

whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act) be as valid and effectual as if he had concurred therein.

Supreme Courts may appoint, for the purpose of taking such acknowledgment, permanent or special Commissioners.

VII. It shall be lawful for any of Her Majesty's said Courts to appoint, by its order, under the seal of the Court, to be published in the *Government Gazette*, or otherwise as the Court shall direct, permanent Commissioners, either by name or office, and to appoint from time to time, under special Commissions, Special Commissioners, any one of whom shall be authorized and empowered, unless the Act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other Officers described in the preceding Section.

Such married woman to be examined apart before Judge, &c. taking her acknowledgment

VIII. Every such Judge, Officer, or Commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act shall examine her apart from her husband, touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case, such deed, so far as relates to the execution thereof by such married woman, shall be void.

Judge, &c. shall sign a memorandum of acknowledgment—form of it.

IX. Every Judge, Officer, or Commissioner, taking such acknowledgment under this Act, shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot or in the margin of such deed, which memorandum shall be to the following effect, namely, "this deed marked

( ) was this day produced before me and acknowledged by therein named, to be her act and deed, previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her.

Deed of married woman to take effect from time of acknowledgment.

X. Every deed executed by a married woman and hereby required to be acknowledged, shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

Deed when presumed to have been duly acknowledged.

XI. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the hand-writing or authority of the Judge or other Officer, or the Commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party, until the contrary is shown.

Nothing in this Act to abridge the powers of alienation which a married woman possessed before

XII. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition, which any married woman might have exercised over any property or rights otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

Contingent estates in deeds or wills, without trustees to preserve, to be protected by the law from destruction.

XIII. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories in the possession and under the Government of the East India Company, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates, the same shall be, to all intents and purposes, as effectually protected by the law, as if such trustees had been duly appointed.

Estate may be conveyed, &c. by deed, though not operating under the Statute of Uses.

XIV. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance

or release which is now valid. be conveyed, passed, or released by a simple deed, whether such deed operate under the Statute of Uses or not.

No conveyance to operate tortuously.

XV. No conveyance of any kind shall operate to destroy, impair, or affect any estate or interest which the conveying party has no right to destroy, impair or affect, or beyond the extent to which he may impair or affect the same.

Words of limitation not necessary in a deed, to give estate by inheritance.

XVI. It shall not be necessary in any deed relating to immoveable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant, or other conveyance of immoveable property to, or in favor of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other contents of the deed; and when in any deed or will executed after the passing of this Act any property is given to a person for life or for other free-hold interest, and afterwards in the same deed, or will, is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

Estate limited to heirs shall not unite with a prior life estate.

XVII. When any property is sold, the proceeds of which are subject to any trust, the *bona-fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Bona-fide purchaser not required to see to application of trust money in any case.

XVIII. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Act to apply only to cases Governed by English Law.

XIX. The term "Her Majesty's Supreme Courts" shall include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

Interpretation.

MADRAS.—TORTURE.

ACT No. XXXII. OF 1854.

[*Received assent of G. G. on the 16th December*, 1854.

Recites appointment of Commissioners to enquire concerning alleged use of Torture.

1. *Empowers the Commissioners to summon witnesses, &c. require production of books, &c.*

2. *Subjects persons summoned who make default of duty under this Act, to same punishment as witnesses who make default on process of Supreme Court.*

3. *Extends provisions of ss.* 8 *and* 9 *of Act* 37, 1850, *to the torture commission.*

4, 5. *Empowers the Commissioners to direct examination of persons at a distance under interrogatories to be sent by letter; and* (5) *makes it obligatory to appear and answer such interrogatories.*

6. *Authorizes the payment of expenses of witnesses.*

7. *Witness not excused from answering on ground of tendency of answer to criminate him; but answer not to be used against him.*

8. *Empowers commissioners to administer oath, &c.*

9. *Extends penalty of perjury to false evidence.*

10. *Limitations of action against Commissioner to be six months.*

11. *On death, &c. of one Commissioner survivor may act or new Commissioner may be appointed.*

An Act to facilitate inquiries respecting the alleged use of Torture in the Presidency of Fort St. George.

Preamble.

Whereas the Governor of Fort St. George in Council has nominated and appointed Edward Francis Elliot, Esquire, Chief Magistrate and Superintendent of Police of Madras, Hudleston Stokes, Esquire, Acting Collector of Madras, and John Bruce Norton, Esquire, Barrister at Law, Commissioners to make certain inquiries and investigations relating to the alleged use of torture in that Presidency; and whereas it is expedient that the said Commissioners and all other Officers who have been, or shall be authorized or required to make such inquiries, should be vested with certain legal powers: It is enacted as follows:

Commissioners empowered to summon witnesses, &c.

I. It shall be lawful for the Commissioners aforesaid, by a summons under their hands, or under the hand of either of them, to require the attendance before them, at a time and place to be

mentioned in such summons, of any person or persons whomsoever residing or being within the local limits of the jurisdiction of the Supreme Court of Judicature at Fort St. George, whose evidence shall, in the judgment of the Commissioners aforesaid, be material to any inquiry relating to the use of torture in the said Presidency, which the said Commissioners have been or may be directed by the said Governor in Council to make, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings, as to them, the said Commissioners, shall appear necessary for arriving at the truth of the matters directed to be inquired into by the said Commissioners, all which persons shall accordingly attend the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them, and shall be in their custody and control, or in the custody and control of any one of them, according to the tenor of the summons.

Witnesses refusing to attend or answer.

II. If any person upon whom any such summons shall be served, by the delivery thereof to him, or by the leaving thereof at his usual place of abode, shall, without reasonable cause (to be allowed by the Commissioners aforesaid,) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be), or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed, to be inquired into by the said Commissioners, or shall refuse or fail, without reasonable cause (to be allowed by the said Commissioners), to produce and show to the said Commissioners any such paper, book, deed, or writing, being in his possession or under his control, as to the said Commissioners shall appear necessary for arriving at the truth of the matters directed to be inquired into, the said Commissioners shall have the same powers in all respects touching any such person so failing to appear, or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed, or writing, as aforesaid, as the said Supreme Court of Judicature may by law exercise against any person for making default of appearance, or for refusing to be sworn, or to give evidence on any issue joined in any action depending in such Court.

III. Every Judge, Collector, Magistrate, or other Officer, who shall be authorized or required by the said Governor in Council to make any inquiry relative to the use of torture in any part of the said Presidency, and to compel the attendance of witnesses upon such inquiry, shall have and exercise all or any of the powers conferred by Section VIII. of Act No. XXXVII. of 1850 upon Commissioners appointed under that Act; and all the provisions of that Section, and of Section IX. of the same Act, shall be applicable for the protection of every Officer appointed to make any such inquiry as aforesaid; and also for the purpose of compelling the attendance of witnesses, and the production of documents upon such inquiry; and for the punishment of persons disobeying any lawful process issued for the purpose of compelling such attendance or production of documents.

Powers of Judge, Collector, Magistrate, or other Officer authorized to make inquiry.

IV. If the said Commissioners require the evidence of any person residing or being beyond the local limits of the jurisdiction of the Supreme Court of Judicature at Fort St. George, or if any such Judge, Collector, Magistrate, or other Officer, who hath been, or shall be authorized to make any enquiry relating to the use of torture, shall require the evidence of any person residing or being beyond the limits of the ordinary jurisdiction of such Judge, Collector, Magistrate, or other Officer, it shall be lawful for the person or persons requiring such evidence, by a letter to be signed by him or them, to request any Judge, Collector, Magistrate, or other Officer having by law, power to examine witnesses upon oath, to examine such witness upon interrogatories to be sent with the letter, or according to instructions to be sent therewith, as to the points upon which the evidence of the witness is required; and the Judge, Collector, Magistrate, or other Officer to whom such letter shall be directed, shall examine the witness, or cause him to be examined upon oath or affirmation accordingly.

Examination of witnesses beyond jurisdiction.

V. Every Judge, Collector, Magistrate, or other Officers, to whom such letter of request shall be sent, shall have the same powers for compelling the attendance of the witness, for examining or causing him to be examined upon oath or affirmation, and

Power to compel attendance, &c. of such witnesses.

for punishing him for any contempt or for refusing to attend or give evidence, as if the evidence of such witness were required in any matter within the ordinary jurisdiction of such Judge, Collector, Magistrate, or other Officer.

Expenses of witnesses.

VI. Every witness, who shall be required to attend or give evidence under the provisions of this Act, shall be entitled to a reasonable sum for his expenses of travelling to and from, and remaining at the place at which he is required to attend.

Witnesses not to be excused from answering.

VII. No person shall be excused from answering any question put to him by the said Commissioners, or any of them, or by any such Judge, Collector, Magistrate, or other Officer as aforesaid, upon the ground of any privilege, nor on the ground that the answer to such question will tend to criminate such person: but no statement made by any person in answer to any such question shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, be admissible in evidence in any proceeding, Civil or Criminal; and every person who, upon such examination, shall be compelled to give evidence which may tend to expose him to penal consequences, shall be freed from all penal actions, forfeitures, punishments, disabilities, and incapacities, and all criminal prosecutions, to which he may have been, or may become liable or subject within any part of the territories in the possession and under the Government of the East India Company, for any thing done by such person in respect of any acts relating to which he shall be examined, unless the Commissioners or Commissioner, Judge, Collector, Magistrate, or other Officer who shall have examined such witness, shall certify in writing, under their or his hands or hand, that such witness is not entitled to the protection lastly hereinbefore given, on the ground that he has not made a full and true disclosure touching all matters to which he has been so examined.

Proviso.

Power to administer an oath, &c.

VIII. It shall be lawful for the said Commissioners, or one of them, or for any such Judge, Collector, Magistrate, or other Officer as aforesaid, to adminster an oath, or in the case of persons allowed by law to make affirmation instead of taking an oath, an affirmation, in such form as to them, the said Commissioners,

shall seem fit, to all persons who shall be examined before them, touching the matters directed, or which may be directed, to be inquired into by them as aforesaid.

Penalty for false Evidence.

IX. Every person who upon examination, upon oath or affirmation, before the said Commissioners, or before any such Judge, Collector, Magistrate, or other Officer as aforesaid, shall wilfully give false evidence, shall be liable to the pains and penalties of perjury.

Limitation of action.

X. No action shall be brought against the Commissioners aforesaid, or any other person or persons whomsoever, for any thing done in the execution of this Act, unless such action shall be brought within six Calendar months next after the doing of such thing.

Death or resignation of Commissioner.

XI. In case of the death or resignation of either of the said Commissioners, or in the event of either of them becoming incapable of acting, it shall be lawful for the other Commissioners, either alone or jointly with any other person who may be appointed to act in the room of the Commissioner so dying, resigning or becoming incapable of acting, to exercise all the powers of this Act; and every part of this Act shall be deemed to apply to the substituted Commissioner.

Repealed by X of 1861 in regard to VIII of 1859

JUDICIAL LANGUAGE.

ACT No. XXXIII. OF 1854.

[*Received assent of G. G. on the 23rd December*, 1854.

Recites expediency of extending provisions of Act 12, 1843.

1, 2, 3. *Decisions, sentences and final orders of all Judicial Officers with reasons to be written in vernacular of such officers and signed by them:* (2) *also the points to be established,* (3) *but not necessary to be done in open court.*

4. *Non-compliance with this Act not to be a ground of appeal against decision.*

5. *Saves Act* 12, 1843.

An Act to extend the provisions of Act No. XII. of 1843.

Preamble.

Whereas it is expedient that every decision, sentence, or final order, made or passed by any Officer of the East India Company acting judicially, together with the reason for the same, should be written in the

Vernacular language of the officer by whom the same is made or passed, and should be signed by him at the time of pronouncing such decision, sentence, or order; it is enacted as follows:

Decisions to be written in the Vernacular language of the Judge, and to be signed by him and filed.

I. Every decision, sentence, or final order, which shall hereafter be made or passed by any Officer of the East India Company acting judicially, together with the reasons for making or passing the same, shall be written in the Vernacular language of such Officer, and shall be dated and signed by such Officer in Court at the time of his making or passing the same, and the original shall be filed with the record or proceedings in the case, and a translation thereof, where the original is recorded in a different language to that in ordinary use in proceedings before such Officer, shall be incorporated in the decree, or record of the decision, sentence, or order.

Translation when to be recorded.

Points to be established shall be written in the Vernacular language of the Judge and signed by him in Court.

II. Whenever, in any suit before any Officer of the East India Company acting judicially, the points to be established by the parties respectively, or on which proof is required by the Court, are directed by law to be recorded, the points shall be written in the Vernacular language of such Officer, and the writing shall be dated and signed by him in Court at the time of his announcing the points to the parties; and if the Vernacular language of such Officer be different from the language in ordinary use in proceedings before the Court, a translation shall be incorporated in the record.

Translation when to be recorded.

Decisions not required to be written in open Court.

III. Nothing in this Act, or in Act No. XII. of 1843, shall be so construed as to require Officers of the East India Company acting judicially to write their decisions, sentences, injunctions, or orders, or to record the point or points to be established by the parties respectively under the last preceding Section in open Court.

No appeal for non-compliance with this Act or Act No. XII. of 1843.

IV. No appeal shall lie from any decision, sentence, injunction or order, nor shall the same be reversed or remanded, upon the ground of non-compliance with the provisions of this Act

or of Act No. XII. of 1843. But the Appellate Court may, by precept, require the Officer of the Lower Court to comply with the provisions of this Act or of Act No. XII. of 1843, and to certify his reasons for any such decision, sentence, or order to the Appellate Court; and any such Appellate Court may, if it deem necessary for the ends of justice, postpone its final decision in the appeal until such precept shall have been returned.

Appellate Court by precept may require compliance.

V. Nothing in this Act contained shall be deemed to repeal any of the provisions of Act No. XII. of 1843.

Saving of provisions of Act No. XII. of 1843.

ELECTRIC TELEGRAPHS.

Repealed by VIII of 60

ACT NO. XXXIV. OF 1854.

[*Received assent of G. G. on the 23rd December*, 1854.

1. *East India Company to have exclusive privilege of establishing Electric Telegraphs in India: but G. G. in C. may grant license on conditions.*

2, 3. *Persons establishing Electric Telegraphs without authority to be liable to specified penalty, and* (3) *also persons using unauthorized Telegraph.*

4. *Empowers G. G. in to C. to take possession of private lines of Telegraph on emergency.*

5. *G. G. in C. may establish Electric Telegraph on line of Railway Company.*

6. *Empowers G. G. in C. to make rules for conduct of Electric Telegraphs.*

7. *Government not to be responsible for loss occasioned by failure to transmit, or erroneous transmission of Telegraphic messages.*

8. *Persons unlawfully entering or refusing to quit Telegraph office to be liable to penalty.*

9. *Persons wilfully causing interruption to the transmission of signals, &c. by cutting line, &c. to be liable to penalty.*

10. *Person damaging Telegraph posts or portion of line liable to penalty.*

11. *Person fraudulently or maliciously making away with, &c. message or disclosing it, liable to penalty.*

12, 13, 14. *Person in Telegraph Department, by drunkenness, &c. endangering transmission of message, &c. liable to penalty; or* (13) *fraudulently transmitting message on which charge is not paid, or* (14) *false and fabricated message, to be liable to penalty.*

15, 16. *Persons not being European British subjects, and* (16) *European British subjects to be punishable by Magistrate within whose jurisdiction the offence is committed.*

17. *Conviction not to be quashed, except on the merits. Depositions to be returned with conviction.*

18, 19. *Empowers Magistrate to refer case for trial to Assistant or Deputy, or* (19) *Assistant or Deputy may try without reference if authorized by Government.*

20. *Fines leviable by distress and sale of goods.*

21. *Servants of E. I. C. in the Electric Telegraph Department in foreign territory punishable for offences, and where.*

22. *Interprets words "Magistrate" and "Fine."*

23. *G. G. in C. may frame rules for conduct of Electric Telegraph.*

An Act for regulating the establishment and management of Electric Telegraphs in India.

Preamble.

Whereas it is expedient that provision should be made for regulating the establishment and management of lines of Electric Telegraph in India, it is enacted as follows:

The E. I. Company to have the exclusive privilege of establishing Electric Telegraph.

I. Within the territories in the possession and under the Government of the East India Company, the said East India Company shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided that the Governor General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

Proviso.

Penalties for establishing or maintaining unauthorized Electric Telegraphs.

II. Whoever shall, otherwise than under a license duly granted as aforesaid, establish or after revocation of such license maintain a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding one thousand rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred rupees.

Penalty for using or working such Telegraphs.

III. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any services incidental thereto, shall, for every such offence, be liable to a fine not exceeding fifty rupees.

IV. The Governor General of India in Council may, on the

Government may take possession of Telegraphs established by license.

occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said territories.

Government may establish Telegraph on land of Railway Company.

V. Any Railway Company, on being required so to do by the Governor General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Governor General in Council to frame rules for the conduct of Government Telegraphs.

VI. The Governor General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Government not responsible for loss or damage.

VII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

No person to intrude into a Telegraph Office.

VIII. Whoever shall without permission enter into a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or impede any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred rupees.

Penalties for cutting the line.

IX. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line, or any

instrument or apparatus, or by any other means, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Injuring posts, &c.

X. Whoever shall wilfully or negligently damage or injure any post or any portion of the line of such Electric Telegraph, shall be liable to a fine not exceeding fifty rupees.

Penalties for fraudulently omitting to transmit messages or for disclosing secret messages.

XI. Whoever, being in the er[illegible] of the Government in the Electric Te[illegible]ph Department, shall fraudulently o[illegible]liciously secrete, make away with, alter [illegible]mit to transmit any message which he [illegible]y have received for transmission, or shall fraudulently or [illegible]iously disclose any message so received by him and direct[illegible] be kept secret, shall be liable to be imprisoned, with or [illegible]out hard labor, for a term not exceeding two years, or to f[illegible]r to both.

Penalty for misconduct.

XII. Whoever being [illegible]ch employ shall be guilty of any act [illegible]unkenness, carelessness, or other mi[illegible]uct, whereby the transmission or delivery of any messag[illegible]l be endangered, or who shall loiter or make delay in [illegible]ransmission or delivery of any message shall be liable to a fi[illegible]xceeding one hundred rupees.

Penalties for sending messages without payment to Government.

XIII. Whoever bei[illegible]uch employ shall transmit by the Elec[illegible]legraph any message upon which th[illegible]ibed charge has not been paid, inten[illegible]hereby to defraud the Government, shall be liable to be imp[illegible] with or without hard labor, for a term not exceeding two years [illegible]ne, or to both.

Penalties for transmission of fabricated messages.

XIV. Whoever shall fraudulently or ma[illegible] transmit or cause to be transmitted [illegible] an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Persons other than European British subjects liable to be punished.

XV. Any person not being a European British subject, who shall, beyond the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature, commit any of the offences mentioned in Sections IX. XI. XIII. and XIV. of this Act,

shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed.

Fines how to be recovered.

XVI. Any person, whether European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the power of Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Conviction to be quashed on merits only. Form of conviction, &c.

XVII. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds: but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the despositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer charge to his Assistants.

XVIII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant; and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Government may authorize Assistant and Deputy Magistrates to exercise certain powers.

XIX. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise

upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of the conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Fines how levied.

XX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers; and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearnce at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security by way of recognizance or otherwise; and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer by warrant under his hand may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment, if no sufficient distress, &c.

Authority to punish Servants of the East India Company who commit offences against this Act in Foreign territory.

XXI. If any Servant of the East India Company, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the said Company, in which an Electric Telegraph is established by the said Company, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed within the territories under the Government of the said Company, such Servant of the said Company shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor General of India in Council to take cognizance of offences committed in such dominions by servants of the East India Company, or by any Court or Magistrate or other competent Officer in any part of the territories within the Government of the East India Company, in the same manner as if the offence had been committed in such part of the said territories.

Explanation of terms.

XXII. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates; and the word "Fine" shall include a penalty or forfeiture.

Government to frame rules for Telegraphs established by license.

XXIII. It shall be lawful for the Governor General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same or employed in connexion therewith,

GOVERNOR GENERAL.

ACT No. I. OF 1855.

[*Passed on the 2nd February*, 1855.

Recites expediency of Governor General's visiting the Neilgherries.

1. *Empowers the Governor General alone to exercise all the powers of G. G. in C.*

2. *Act to take effect from date of notification in Gazette.*

An Act for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

Preamble

Whereas the Governor General in Council has declared that it is expedient that the Governor General should visit the Neilgherry Hills in the Presidency of Fort St. George, and other parts of India, unaccompanied by any Member of the Council of India, It is enacted as follows:

Powers to be exercised by the Governor General during his absence from the Council of India.

I. During the absence of the Governor General from the Council of India, it shall be lawful for the Governor General alone to exercise all the powers which might be exercised by the Governor General in Council in every case in which the said Governor General may think it expedient to exercise those powers.

Commencement and duration of Act.

II. This Act shall commence from the day on which it shall be notified, by an order published in the official Gazette, that the Governor General has quitted Calcutta for the purpose of so proceeding as aforesaid, and shall not continue in force for a longer period than one year.

EVIDENCE.

ACT No. II. OF 1855.

[*Passed on the 2nd February*, 1855.

Recites expediency to improve Law of Evidence.

1. *Repeals Act* 10, 1835.

2, 3, 4, 5, 6. *Courts, &c. to take Judicial notice of Regulations passed before* 22*nd April* 1834, *and of all Acts heretofore or hereafter passed;* (3) *of*

Acts of Parliament, declared public; printed copy of private Acts; (4) *of its own members, &c.* (5) *of the names, titles and authorities of the G. G. and other specified officers;* (6) *of the divisions of time, geographical divisions, war and peace, &c. &c.*

7, 8. *Government Gazette, &c. to be received as authentic; and as* (8) *proof of proclamations &c. contained therein.*

9. *Recitals in Acts to be proof of facts recited.*

10. *Gazette, &c. to be p. f. evidence of the authority under which advertisement purports to be published.*

11. *Courts may refer to Books, Maps, &c. on matters of public history, &c.*

12. *Foreign Codes and Laws may be proved by books purporting to be published by authority.*

13. *Maps published by Government, &c. to be p. f. evidence.*

14. *Persons incompetent to testify.* (1) *Children under 7 years of age, &c.* (2) *Insane persons, &c.*

15, 16, 17. *Oath and solemn affirmation to be dispensed with in certain cases and simple affirmation substituted;* (16) *affidavit to be made in like manner;* (17) *and false affirmation to be punished as perjury.*

18. *Removes incompetency by reason of interest.*

19. *Parties to suits liable to be examined and to produce documents.*

20. *Husband and wife competent to be witnesses for or against each other, &c.*

21. *Production of documents relating to affairs of state not compellable, &c.*

22. *Parties not compellable to produce documents not relevant to case, &c. nor confidential writings, &c. unless when they are voluntary witnesses.*

23. *Witness summoned to bring documents must bring them; their admissibility to be determined by the Court and Law.*

24. *Barristers, &c. not to disclose communications made by clients, &c. but privilege of withholding may be waived by client.*

25. *Persons present in Court bound to give evidence, &c. though not subpœnaed.*

26. *Dispenses with attendance of persons, where only document wanted.*

27, 28. *Establishes the rules of evidence on plea side on all sides of Supreme Court;* (28) *except in cases of treason, &c.*

29. *Dying declarations admissible, though the declarant expected to recover.*

30. *Witnesses may by leave of Court be cross-examined by party calling them.*

31. *Former statements of witnesses as to certain facts may be used as evidence, &c.*

32. *Witness not to be excused from answering what may criminate himself, but answer not to be used against him.*

33. *Witness may be asked if he has been convicted, &c.*

34. *Witness may be examined as to former statement, and contradicted, &c.*

35. *Copies by copying machine to be deemed correct.*

36. *If original document out of reach of process, order may be made for receiving secondary evidence.*

37, 38. *Attested document provable as if unattested, except when; and* (38) *admission of execution, to avail, when.*

39. *Statement &c. made against interest, admissible, when.*

40. *Entries according to usual course of business admissible, for what purpose, and when.*

41. *Receipts to be evidence against, and whom.*

42. *Receipts of agents admissible against principal, when.*

43, 44. *Books on proof of being regularly kept admissible as corroborative evidence;* (44) *also certificates of shares, bills of lading, &c.*

45, 46. *By what writing witnesses may refresh their recollections; and* (46) *when by copies.*

47. *In cases of pedigree, declarations of illegitimates admissible.*

48. *Comparison of handwritings, &c. admissible on question of genuineness.*

49. *Power of attorney purporting to be duly executed to be received as such, when.*

50, 51. *Letter book and messenger's Receipt book to be evidence of contents and dispatch of letter, when.*

52. *Repeals part of S.* 6, *Act* 15, 1852.

53, 54, 55. *Extends S.* 16 *of Act* 16, 1854; *and* (54) *part of S.* 17 *of Act* 6, 1854; *and* (55) *S.* 33 *of same Act.*

56. *Official documents made evidence by Statute, &c. to be admissible, when, without proof of seal, &c.*

57. *Improper reception or rejection of evidence not ground for new trial &c. where rejected evidence sufficient.*

58. *Evidence admissible independent of this Act, not rendered inadmissible by it.*

An Act for the further improvement of the Law of Evidence.

Preamble.

Whereas it is expedient further to improve the Law of Evidence, It is enacted as follows:

Act repealed.

I. Act No. X. of 1835 is hereby repealed.

Judicial notice to be taken of all Acts and Regulations.

II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice and all persons having by law or consent of parties authority to take evidence shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April 1834 by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of Law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council,

and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, whether the same be of a public or of a private nature.

Judicial notice to be taken of public Acts of Parliament.

III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *primâ facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.

What shall be *primâ facie* proof of a private Act.

Judicial notice to be taken by Court of its own Officers, &c.

IV. Every Court shall take judicial notice of its own Members and Officers respectively, and of their deputies and subordinate Officers or Assistants, and also of all Officers acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakeels, Pleaders, and other persons authorized by Law to act before it.

Judicial notice to be taken of the names, titles, &c. of certain persons.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories:—Governor General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories, to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

Judicial notice to be taken of divisions of time, place, &c.

VI. All such Courts and persons aforesaid shall take judicial notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title and national flag of every sovereign or State recognized by the British Crown. In all the above cases,

such Court or person may resort for its aid to appropriate Books or documents of reference.

Proof of *Government Gazette*.

VII. Any *Government Gazette* of any Country, Colony, or dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

Proof of Proclamations, Acts of State, &c.

Proclamations, &c. when to be *primâ facie* proof of fact.

VIII. All Proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other official communications of the Government appearing in any such *Gazette*, may be proved by the production of such *Gazette*, and shall be *primâ facie* proof of any fact of a public nature which they were intended to notify.

Recital in Act of a fact of a public nature to be *primâ facie* proof.

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations hereafter to be passed of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *primâ facie* evidence of the truth of the fact recited.

Gazette, &c. containing advertisement purporting to be published by authority, to be *primâ facie* evidence of such authority.

X. The *Gazette* or Newspaper containing any advertisement purporting to be published by virtue of any public Statute, Act, Regulation or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue, may be received by any such Courts or persons as aforesaid as *primâ facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

Books, Maps, &c. to be evidence in matters of public history, &c.

XI. All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the the purposes of evidence, to such published Books, Maps, or Charts as such Courts or persons shall consider to be of authority on the subject to which they relate.

XII. Books printed or published under the authority of the

What Books, &c. shall be evidence of Foreign Law.

Government of a Foreign Country and purporting to contain the Statutes, Code, or other written Law of such Country, and also printed and published Books of reports of decisions of the Courts of such Country, and Books proved to be commonly admitted in such Courts as evidence of the Law of such Country, shall be admissible before any such Courts or persons as aforesaid as evidence of the Law of such Foreign Country.

Government or public Maps when to be *primâ facie* proof.

XIII. All Maps made under the authority of Government or of any public municipal body, and not made for the purpose of any litigated question, shall *primâ facie* be deemed to be correct, and shall be admitted in evidence without further proof.

Persons incompetent to testify.

XIV. The following persons only shall be incompetent to testify.

Children.

1. Children under seven years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

Insane persons.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

Not to be summoned without leave of Court.

Children and persons of defective religious belief to testify on simple affirmation.

XV. Any person who, by reason of immature age or want of religious belief, or who by reason of defect of religious belief, ought not, in the opinion of such Court or person, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

Provisions as to witness to apply to affidavits, &c.

XVI. The Provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing, as well as to testimony orally delivered.

XVII. Any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he had been sworn and had committed wilful and corrupt perjury. The indictment or charge shall be varied so as to meet the case.

Punishment for giving false evidence.

XVIII. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

No incompetency from interest in suit.

XIX. Any party to a civil suit or other proceeding of a civil nature shall be competent and may be compelled to give evidence as a witness therein either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Courts of Judicature, shall compel the attendance of any party to such suit or proceeding for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act XIX. of 1853.

Party to suit may be examined as a witness.

Proviso.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Husband or wife giving evidence.

Proviso.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

Witness &c. not bound to produce document relating to State affairs.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any confidential writing or correspondence which may have passed between him and any legal professional adviser.

Party to suit not bound to produce certain documents.

If any party however offer himself as a witness, he shall be bound to produce any such writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Unless he offers himself as a witness.

XXIII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to bring it, or cause it to be brought into Court, although there be a valid objection to the right of the party calling for it to compel its production or to the reading or putting it in as evidence, or to the disclosure of the contents thereof, the validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence, which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

Witness summoned to produce a document must bring it into Court.
Mode of determining objection to production.

Document relating to affairs of State.

XXIV. A Barrister, Attorney, or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance,

Professional communications.

he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client, and the Barrister, Attorney, or Vakeel shall be bound upon examination to disclose any such matter.

Persons present in Court to give evidence, &c. though not summoned.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

Persons summoned to produce a document not bound to attend personally.

XXVI. Any person, whether a party to the suit or not, may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Rules of Evidence in Supreme Courts on Ecclesiastical and Admiralty sides.

XXVII. The Rules of Evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil Jurisdiction, shall be the same as they are on the Plea side of the said Courts.

Evidence of one witness sufficient proof.

XXVIII. Except in cases of treason, the direct evidence of one witness, who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person.

Proviso.

But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.

Dying declarations when admissible.

XXIX. Where dying declarations are evidence they shall be received, if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger

of approaching death, though he entertained, at the time of making it, hope of recovery.

Party allowed to cross-examine and discredit his own witness.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness, to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

Former statement admissible to corroborate a witness.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge, Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the Suppression of Thuggee or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge or other Officer above-mentioned, under his hand or the Official Seal of the Court, or under the hand or Official Seal of such Judge, to be a true copy of such deposition or statement, without further proof, be received as *primâ facie* evidence that such deposition or statement was made, and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.

Witness bound to answer criminating questions.

XXXII. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any Civil or Criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind. Provided that no such answer, which a witness shall be compelled to give, shall except for the purpose of punishing such person for wilfully giving false evidence upon such exmination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

Proviso.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

Witness may be examined as to conviction for felony.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him.

Cross-examination as to previous written statements.

Proviso.

Provided always, that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

Copy of a document made by a copying machine to be deemed correct

XXXVI. When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any Civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

Admission of secondary evidence where original document is out of the reach of process.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

When attested document may be proved as if unattested.

XXXVIII. The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *primâ facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

Admission *primâ facie* proof of an attested document.

XXXIX. Any entry or statement, which would be admissible

Entry made against interest or in course of business when admissible in life-time of person making it.

in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bonâ fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.

Entry in course of business when admissable for purpose of identification.

XL. Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number or otherwise any Bank Notes or other Securities for the payment of money, or other property, and the payer-in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to have been made at or about the time of the transaction. to which it relates, though the person who made it, or he on whose information it was made, is alive and capable of being produced as a witness.

Receipt, when evidence against person other than the giver.

XLI. Any receipt in writing, acknowledging the receipt of any money, valuable securities or goods, shall, on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it, but also against any person in whose favor such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money, security or goods acknowledged to have been received.

Receipt of agent.

XLII. Whenever a receipt would be admissible under the preceding Section, if given by a principal, a receipt given by an agent or servant of such principal shall in like manner be evidence upon proof of the authority to give such receipt.

XLIII. Books proved to have been regularly kept in the

Books kept in course of business or in a public office admissible as corroborative evidence.

course of business or in any public office shall be admissible as corroborative, but not as independent proof of the facts stated therein.

XLIV. The following documents may be admitted as corroborative evidence:—Certificates of shares, and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

Documents admissible as corroborative evidence.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

Refreshing memory of witness.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person, under the circumstances, be satisfied that there is sufficient reason for the non-production of the original.

Court may permit a copy of document to be used to refresh memory.

XLVII. In cases of pedigree, the declarations of illegitimate members of the family, and also of persons who though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

Declarations of illegitimate persons, &c. admissible in questions of pedigree.

XLVIII. On an inquiry whether a signature, writing or seal is genuine, any undisputed signature, writing or seal of the party, whose signature, writing or seal is under dispute, may be compared with the disputed one, though such signature, writing or seal be on an instrument which is not evidence in the cause.

Comparsion of handwriting, &c.

Proof of power of Attorney.

XLIX. Any Power of Attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit or proceeding is depending, may be proved by the production of it, without further proof, where it purports, on the face of it, to have been executed before, and authenticated by a Notary Public or any Court, Judge, Consul or Magistrate.

Proof of dispatch of letter by Letter Books.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and dispatched, and the Letter Book is produced, and it is proved that the letter was dispatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the dispatch of that letter according to the usual course of business.

What to be *primâ facie* proof of receipt of letter.

LI. Any book proved to have been kept for marking the dispatch and receipt of letters, containing an entry of the dispatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *primâ facie* evidence of the receipt of such letter.

Repeal of part of Section VI. of Act XV. of 1852.

LII. So much of Section VI. of Act XV. of 1852 as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.

Extension of Section XVI. of Act VI. of 1854.

LIII. The provision contained in the 16th Section of Act VI. of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may, by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearing of any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits and proceedings on all sides of the Courts.

Extension of Section XVII. of Act VI. of 1854.

LIV. So much of the 17th Section of the same Act as provides that, upon the hearing of any motion, petition or other proceeding in any of the said Supreme Courts, the Court may, upon

the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall extend to all civil actions, suits and proceedings on all sides of the said Court.

Section XXXIII. of Act VI. of 1854 extended.

LV. The 33rd Section of the Act No. VI. of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.

Proof of Official documents.

LVI. Whenever, by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any Certificate, certified copy, or other document, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinace which makes it evidence, shall be *primâ facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character or authority, which it is directed to have, or from which it is directed to proceed.

No new trial for rejection or improper reception of evidence.

LVII. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that if the rejected evidence had been received, it ought not to have varied the decision.

Act not to render inadmissible evidence now admitted in the Company's Courts.

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.

THE INDIAN NAVY.

ACT No. III. OF 1855.

[*Passed on the 2nd February*, 1855.

1. *Repeals Act 4 of Bombay Reg. registered 11th July*, 1820.

2. *Persons instigating desertion from Indian Navy or harbouring deserters, liable to fine.*

3. *Master of vessel having on board a deserter to be liable to fine, if he might have prevented it.*

4. *Offences under this Act cognizable by Justices of the Peace, &c.*

5. *Conviction needs not state the evidence, and not to be quashed for want of form, &c.*

6. *Offences punishable under this Act, and Act* 14, 1849 *may be dealt with under either.*

7, 8. *Commander in Chief of I. N. and what other persons may issue warrants; and* (8) *all constables bound to execute warrant.*

9. *What the proceedings under this Act shall be.*

An Act for the better prevention of Desertion from the Indian Navy.

Preamble.

Whereas it is expedient to amend and extend the laws in force for apprehending and detaining deserters from the Indian Navy and for punishing persons who aid and encourage such desertion, It is hereby enacted as follows:—

Repeal of Article 4 of Bombay Rule, Ordinance and Regulation of July 1820.

I. Article 4 of a Rule, Ordinance and Regulation for the Port of Bombay, passed by the Governor in Council and registered in the Court of the Recorder on the 11th day of July 1820, is hereby repealed in so far as it relates to Seamen of the Indian Navy,

Penalty for instigating desertion from the Indian Navy or concealing deserter.

II. Whoever, directly or indirectly instigates or procures any Officer, Seaman, or other person belonging to the Indian Navy to desert, or knowing that any Officer, Seaman, or other person belonging to the Indian Navy is about to desert, assists him in deserting; or knowing any Officer Seaman, or other person belonging to the Indian Navy to be a deserter, harbours, conceals or assists in concealing such deserter, shall for every such offence be liable to a fine not exceeding one thousand Rupees.

III. If it shall appear that a deserter has been concealed on board any Merchant Vessel, and that the Master or person in charge of such Vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such Master or person, or for the want of proper discipline on board his Vessel, such Master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always that no conviction for such minor offence as is lastly hereinbefore described, shall be lawful unless the same shall be stated in the charge which the party is called upon to answer, and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his Vessel, or has, by neglect of duty, or by reason of the want of proper discipline on board the Vessel, allowed such deserter to be so concealed.

Penalty on Master in certain cases, if a deserter be concealed on board his ship.

Charge may be in the alternative.

IV. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any Port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not; and any person hereby made punishable by a Justice of the Peace, shall be punishable on summary conviction.

Jurisdiction.

V. No conviction, order, or judgment of any Justice of the Peace, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken or a copy of them shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari;* and if no jurisdiction appears on the

Conviction to be quashed on merits only; form of conviction, &c.

face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Saving of proceedings under Act No. XIV. of 1849.

VI. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other Officer having authority in that behalf, from committing for trial any person shall be charged with an offence punishable under Act No. XIV. of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Proviso.

Commander-in-Chief of Indian Navy, &c. may issue Warrants for apprehension of deserters.

VII. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commander-in-Chief of the Indian Navy, or other person who shall be in the performance of the duties of Superintendent of the Indian Navy, or his Deputy, or, in their absence, to the Senior Officer of the Indian Navy at any Port or place within the territories of the East India Company, which oath or affirmation the several persons above-named shall severally under this Act have power to administer, or whenever on such information as aforesaid, given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such Port or place, there shall appear reason to suspect that any Officer, Seaman, or other person belonging to the Indian Navy, who may have deserted or be absent without leave, is on board any Ship, Vessel, or Boat, or is concealed on shore at any such Port or place within the territories of the East India Company, it shall be lawful for such Commander-in-Chief of the Indian Navy, or person performing the duties of Superintendent of the Indian Navy, or his Deputy, or such Senior Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a Warrant authorizing the person or persons to whom such Warrant may be addressed to enter into and search, at any time of the day or night, any such Ship, Vessel, or Boat, or any house or place on

shore, and to apprehend any such Officer, Seaman, or person belonging to the Indian Navy, and to detain him in custody in order to his being dealt with according to Law.

Warrant to whom to be addressed, and by whom to be executed.

VIII. The Warrant to be issued under the preceding Section may be addressed to any persons in the Indian Navy, or to all Constables, Peace Officers, and other persons who may be bound to execute the Warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such Warrant.

Persons apprehended how to be dealt with, &c.

IX. Every person who shall be apprehended as a deserter from the Indian Navy, under any Warrant under the 7th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in or near the place wherein such person shall have been arrested, who shall examine such person, and if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the Indian Navy, shall cause him to be placed on board some Vessel of the Indian Navy, in order that he may be dealt with according to law; and if there shall be no such Vessel in or near the place wherein such deserter shall have been apprehended, shall cause such deserter to be conveyed to the nearest or most convenient prison, and to be detained there until he can be placed on board a Vessel of the Indian Navy for such purpose as aforesaid; and in every case in which any person shall be committed to prison as aforesaid, the committing Magistrate shall transmit an account thereof to the Commander-in-Chief of the Indian Navy or to the Officer commanding some Vessel of the Indian Navy; and every person so committed to prison shall be entitled to his discharge from custody under such commitment, unless within three months from the date thereof he shall, on the requisition of the said Commander-in-Chief, or such other Officer as aforesaid, have been placed on board one of the Vessels of the Indian Navy, in order that he may be dealt with according to Law.

ASSAM COMPANY.

ACT No. IV. OF 1855.

[*Passed on the* 10*th February*, 1855.

Recites expedicency of continuing the Company for twenty years.

1. *Repeals Act* 14 *of* 1854.

2. *Continues the Assam Company for* 20 *years.*

3. *Empowers the Company to hold land, &c. for the growth of tea, but prohibits manufacturing salt or cultivating opium without licence.*

4. *Capital of Company valued at* 50 *Lakhs of Rupees in* 10,000 *Shares.*

5. *Empowers Company to raise loans to extent of one fourth of its valued capital.*

6. *Confers corporate name on Company.*

7. *Empowers Company to make Bye-laws.*

8. *Regulates the holding of meetings.*

9. *Prescribes the accounts to be kept and presented, &c.*

10, 11. *Entitles Shareholders to have certificates signed by Director and* (11) *Shares to be personal property.*

12, 13. *Payment up of further capital to be regulated by bye-laws; and* (13) *arrears may be chargeable with interest.*

14. *Contracts, &c. made by Company under former Acts to be valid under this Act.*

15, 16. *Company's Deed, Rules and bye-laws to be kept at office, and also copies filed with Prothonotary of Supreme Court, &c.; and* (16) *names of Directors and Officers of Company to be kept in book at office and filed with Prothonotary.*

17. *Names of Shareholders and transfers to be registered in book to be kept at office, &c.*

18, 19. *Company to sue and be sued in corporate name, &c.; and* (19) *Process to be served on Secretary.*

An Act for incorporating for a further period, and for giving further powers to the Assam Company.

Preamble.

Whereas by Act No. XIX. of 1845 the Assam Company was incorporated and it was thereby enacted that the Act should continue in force until the 30th day of April 1854. And whereas by Act No. XIV. of 1854, the operation of the above Act was continued until the 30th day of April 1855. And whereas it is expedient that the said Company should be incorporated for a period of twenty years to commence from the passing of this Act, and should have the powers, and be subject to the provisions, hereinafter contained. It is enacted as follows:—

I. Act No. XIV. of 1854 is hereby repealed except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

Act No. XIV. of 1854 repealed.

II. The several persons and corporations who now are and shall hereafter become proprietors or shareholders of the said Assam Company, and their respective successors, executors, administrators, and assigns, shall be and continue for the term of twenty years from the passing of this Act, a Company for the purposes herein declared, and shall, during such time, constitute and be one body corporate by the name and style of "The Assam Company," and shall have a common seal, and by that name shall and may sue and be sued.

"Assam Company" incorporated for 20 years.

III. It shall be lawful for the said Company to carry on, prosecute, and extend the cultivation of the tea plant in the lands which have already been granted to, and all and every the lands which may be taken by, or granted to the said Company in Assam and the North East parts of India, and to manufacture and dispose of the tea, the growth thereof, and generally to carry on the business of cultivating the tea plant, and manufacturing or preparing the same for sale and exportation, and also (if they shall deem it advisable) to engage in, prosecute, carry on, or extend the cultivation, manufacture, and preparation of all or any such other products of land, save as hereinafter excepted, as may be found expedient, and for such purposes to take and hold and make any such grants, leases, and purchases, and other acquistions of land for any term of years as the Governor General in Council shall approve; such approval to be signified in writing under the hand of one of the Secretaries to the Government of India: and if requisite to sell, dispose of, and alienate the same or any part thereof respectively: and to form, erect and make all such establishments, buildings, works, and conveniences as the said Company shall think proper, and generally to use all such other ways and means as to the said Company shall seem meet for carrying into effect the objects aforesaid. Provided always that the said Company shall not engage in or prosecute the manufacture of salt or the

Company empowered to hold land for the cultivation of the tea plant and other products.

Proviso.

cultivation or preparation of opium without the special license of the Local Government first obtained.

Capital of the Company.

IV. The capital of the said Company shall consist of Company's Rupees 5,000,000 to be contributed in 10,000 shares of Company's Rupees 500 each, which shall be the original capital of the said Company, and of such further sum as may be raised by the creation and sale of new shares as hereinafter provided for. Provided always that it shall and may be lawful for the said Company at any time, and from time to time, to increase the capital of the said Company to any amount not exceeding one crore of Company's Rupees altogether, by the issue of fresh shares of Company's Rupees 500 each upon such terms as to them shall seem fit.

Proviso.

Power to raise money by loan.

V. It shall not be lawful for the said Company to raise money by way of loan to a greater amount than one-fifth of the capital of the said Company.

All property vested in the incorporated Company.

VI. All and every the grants of land already made, obtained, or contracted for by the said Company, and the plantations and works made and erected thereon, and the produce thereof, and all offices, warehouses, and buildings, and all articles whatsoever thereupon or appertaining thereto or used therewith; and all property, real and personal, goods, articles, and things whatsoever purchased, taken, bought, grown, produced, or otherwise acquired for the purposes of the said Company, and all the estate, right, title, and interest whatsoever therein both at law and in equity to all intents and purposes shall henceforth vest in and belong to the said "Assam Company" and their successors in their corporate capacity; and no individual subscriber or shareholder thereof shall, as such, have or pretend to any estate, ownership, or right of property therein.

Power to make Bye-laws. Bye-laws of former Company to continue in force.

VII. The said Company shall have full power to make and constitute any bye-laws, rules, and regulations not repugnant to Law or to this Act, for and relating to the government and affairs of the Company and for the government and guidance of the Directors and Officers, and from time to time abrogate, alter,

and vary the same; and such of the provisions of the deed of co-partnership or settlement of the said Company bearing date the 31st day of January 1840, as have not since been altered or abrogated, and other the rules, bye-laws, and regulations of the said Assam Company now in force shall, until duly altered or abrogated, constitute and be the first bye-laws, rules, and regulations of the said Company under this Act and shall have and take effect as such so far and in such particulars as the same are not repugnant to Law or to this Act.

Time and mode of holding general and extraordinary meetings.

VIII. A general meeting of the said Company shall be held at the principal office or place of business of the said Company at Calcutta twice at the least in every year, and oftener, when and if need shall be; the time of holding which periodical meetings, and the form and mode of requisition for holding special or extraordinary meetings, and of advertizing and giving notice thereof respectively, shall be settled and determined by the bye-laws or rules of the said Company: and at all such meetings, whether periodical or special, every proprietor holding 5 shares and less than 20 shares shall be entitled to 1 vote, and every proprietor holding 20 and less than 50 shares to 2 votes, and every proprietor holding 50 and less than 100 shares to 3 votes, and every proprietor holding 100 shares and upwards to 4 votes and no more; but no proprietor shall be entitled to vote who shall not hold at least 5 shares, provided, however, that the shares in respect of which any proprietor shall claim to vote shall have been held for such period of time as is or shall be required by the bye laws, rules, and regulations of the said Company. Provided also and it is hereby enacted, that votes given by proxy according to any bye-law, rule, or regulation of the said Company, shall be deemed to be as valid and effectual as if given in person.

Number of Votes.

Votes by Proxy.

Account books and balance sheet to be produced at general meetings.

IX. At such general meetings as aforesaid, the books and accounts of the said Company shall be produced and exhibited for the inspection, examination, and approval of the subscribers or shareholders at large, and at each of such general meetings there shall be produced and presented by the Directors, or

other officers of the said Company for the time being a true account in abstract and balance sheet showing the whole of the receipts and disbursements, and operations of the said Company commencing from the date of their next preceding general meeting and account brought down to the date of holding such general meeting at which the same shall be produced, or as near thereto as conveniently may be, and such abstract, account, and balance sheet when examined, approved, or passed by such or any subsequent meeting, shall immediately be published in the *Calcutta Government Gazette* and in two public Newspapers of general circulation at Calcutta.

Balace sheet to be published in *Gazette.*

X. A certificate signed by two at least of the Directors of the said Company shall, upon request, be delivered to every proprietor or shareholder of the said Company, and the shares of the said Company shall be transferable only by the execution of a deed or instrument of transfer in the form provided and sanctioned by the Directors for the time being of the said Assam Company. Provided always that no such deed or instrument shall be effectual to transfer any share in in the said Company uutil compliance with the provisions of the deed of co-partnership of the said Company bearing date the 31st day of January 1840 and all the bye-laws rules, and regulations of the said Company, and until a memorandum or note of such transfer shall have been registered in the registry kept for that purpose at the office in Calcutta of the said Company, and until the name of the transferree of such share shall have been entered in the share register book of the said Company as the proprietor thereof.

Certificate of Share.

Share to be transferred by deed, &c.

Proviso.

Registry of tranfer.

XI. The shares of and in the said Company shall, as between the several proprietors thereof and their real and personal representatives and all other persons claiming under them, be deemed to be personal estate to all intents and purposes whatsoever and be transmitted and transmissible and disposed of accordingly.

Shares to be deemed personal property.

XII. For the purpose of satisfying any demands upon the

Bye-laws to direct the mode of payment by instalments of unpaid shares.

said Company, or for the purpose of raising any further capital that shall become requisite for the purpose aforesaid, the several subscribers or shareholders shall pay up the whole or any part of the unpaid amount of their respective shares by instalments to be called for by such persons in such manner, and to be paid at such times and places and manner as shall be appointed for that purpose by any bye-law or regulation of the said Company.

Bye-laws may direct interest to be charged on unpaid instalments or forfeiture of shares.

XIII. It shall be lawful for the said Company by bye-law or regulation to provide that, if any such instalment be not paid on or before the day fixed for the payment thereof, interest after any legal rate to be appointed by such bye-law or regulation shall be paid upon such instalment from such day up to the day when the same shall be actually paid, and the amount of any such call with interest shall be a debt due to the said Company, and it shall be lawful for the said Company in like manner to make any provision or provisions for the forfeiture of any share or shares on the nonpayment of any such instalment and interest or the restoration of any forfeited share or shares. Provided that no such forfeiture shall be incurred until after default shall have been made for at least 3 calendar months.

Proviso.

Contracts, &c., made prior to his Act, to be binding.

XIV. The said Company shall have the benefit of and shall be bound by all the contracts, acts, deeds, matters, and things which up to the passing of this Act have been legally made, done, executed, or performed under or by virtue of the said Acts No. XIX. of 1845 or No. XIV. of 1854 or the said deed of the 31st January 1840, and shall and may, in manner herein mentioned and provided, sue and be sued thereon, and in respect thereof, and shall have and be subject to the like rights and liabilities in respect thereof as the said Assam Company or the members thereof would have had and been subject to under or by virtue of the said Acts.

Copies of the original deed of association and of all rules, &c. to be kept for inspection at the office

XV. A copy of the original deed of association of the said Company, and copies of all rules, orders, bye-laws, regulations or proceedings of the said Company of other instruments whatso-

of the Company and in the Prothonotary's Office at the Supreme Court.

ever, whereby any change shall have been, or shall at any time be made by the authority of the said Company in the provisions of the said original deed of settlement or co-partnership bearing date the 31st day of January 1840, shall be kept at the office of the said Company in Calcutta and shall there be open to the inspection of all persons during the usual hours of business of the said office, and a copy of each such rule, order, bye-law, regulation, proceeding, or instrument as aforesaid shall also be deposited by the said Company, as soon as it can be done after the passing of this Act, or after the making of any such rule, order, bye-law, regulation, proceeding, or instrument hereafter to be made, in the office of the Prothonotary of the Supreme Court of Judicature at Fort William aforesaid, and shall be there filed, and be and remain open to the inspection of all persons during the usual hours of such office, and an examined copy of each such filed copy as aforesaid, certified by and under the hand of the Prothonotary for the time being of the said Supreme Court, shall be good and sufficient evidence of each such original deed, rule, order, bye-law, regulation, proceeding, or instrument in all actions, suits, and proceedings whatsoever, whether Civil or criminal, to be had in any Court of Justice, or before any Magistrate or other Officer, whether acting judicially or in any proceedings preliminary to a judicial inquiry, throughout the territories for which the Governor General of India in Council has power to legislate.

Examined copies to be evidence.

XVI. The said Company shall cause the name of each and every Director of the said Company, and also the name and proper official description of each and every Officer of the said Company and of every person acting and officiating for the time being as such Officer, to be entered in a Book to be kept at the said principal office in Calcutta of the said Company, to be there open to the inspection of all persons during the usual hours of business of the said office, and shall also, within six months from the time of passing this Act, cause a memorial of the said names and descriptions respectively to be enrolled in the said office of the Prothonotary of the said Court, and a fresh memorial thereof to be from time

Names of Directors and Officers to be entered in a book at the office and to be enrolled from time to time in the Prothonotary's Office.

to time enrolled and within 12 months after any change or changes shall be made or take place either in the direction aforesaid or in any of the said offices.

Names of shareholders and all transfers of shares to be registered.

XVII. The said Company shall cause the names, places of residence or business, and descriptions of the business, profession, or employment of the proprietors of shares in the said Capital Stock, and the number of shares held by each proprietor, to be registered in a book and numbered in a regular consecutive series beginning with No. I, and such book shall be kept at the said office in Calcutta of the said Company, and shall there be open to the inspection of all persons during the usual hours of business, and each successive transfer or change of ownership in the share or shares shall be entered in the manner above-mentioned with the like particulars above-mentioned in the said book, and against the original entry of such share or shares shall be entered a note of every such change of ownership or transfer, with a sufficient reference to the place or places in such book wherein is or are made the entry or entries of the name or names, place or places of residence or business, and descriptions of the proprietor or proprietors to whom or in whose favor such transfer or change, transfers or changes, shall have been made or had from time to time as aforesaid.

Company how to sue and be sued, &c.

Process to be only against the corporate stock, &c.

XVIII. The said Company shall sue and be sued and described in and by its said corporate name and not otherwise, in all proceedings whatsoever, whether Civil or of a Penal or Criminal or other character, and whether the same be the proceedings of any Court, or of any Magistrate or other officer or person executing any inquiry either preliminary to, or in the nature of a judicial investigation or inquiry, and shall for all purposes of jurisdiction be capable of suing and proceeding and be liable to be sued and proceeded against in its said corporate name, character, and capacity in and before any Court, Magistrate, Officer, or person within any of the territories under the Government of the East India Company in respect of all matters and things over which such Court, Magistrate, Officer, or person respectively may have jurisdiction, and to the extent of such jurisdiction in like manner as the same

may for the time being be there had by or against any British subject or subjects within the said territories. Provided always that no process or proceedings whatsoever, whether of a mesne or final or other nature, shall be had against the person or property of any individual members, shareholders, or subscribers of the said Company, either for the purpose of giving notice of any suit or proceeding, or of effecting any appearance to any suit or proceeding, or of obtaining payment or satisfaction of any debt, claim, or demand against the said Company, or of levying any fine or penalty awarded against the said Company, or of obtaining paymant or satisfaction of any judgment, decree, award, order, or determination against the said Company, or for any like purpose, but that all such process and proceedings of what nature soever shall be had solely against the said Company or the corporate stock, property, and effects of the said Company.

Proviso.

XIX. The service of all mesne and other process rules and orders and all notices whatsover, which by law, or by the practice of any Court wherein the said Company shall sue or be sued or otherwise, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, upon or to the Secretary for the time being of the said Company resident in Calcutta or the person or persons acting and officiating as such, or by leaving the same addressed to the said Secretary or person acting and officiating as such at the principal office or place of business in Calcutta of the said Company.

Service of process, &c. on Secretary, sufficient.

XX. This Act shall continue in force for a period of twenty years to commence from the passing hereof.

Duration of Act.

PROCESS OF EXECUTION.—SUPREME COURTS.

ACT No. V. OF 1855.

[*Passed on the* 17*th February*, 1855.

Recites expediency of assimilating process of execution on all sides of Supreme Courts.

1, 2, 3. *Abolishes process of contempt in certain cases as part of process of execution;* (2) *substitutes for it a fi. fa. or ca. sa.* (3) *what the Sheriff is to do with the money.*

4, 5. *Substitutes an officer of the Court to do certain acts, on default of parties ordered to do them; or* (5) *Court may in certain cases dispense with act being done.*

6. *Substitutes for old procedure power in the Sheriff to carry into execution decrees for possession, &c.*

7. *Repeals s.s.* 1 *and* 2 *of Act* 25 *of* 1841.

8. *Reserves the old process of contempt for cases where the new procedure cannot be applied.*

9. *H. M.'s Courts to frame new writs.*

10, 11. *Interpretation clause.* (11) *Act to take effect from* 1*st May*, 1855.

An Act to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV. of 1841.

Preamble.

Whereas it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases, which are contained in Act No. XXV. of 1841: It is enacted as follows:—

Process of contempt not to issue to compel performance of decree, &c. to pay money or to execute a deed, &c.

I. No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.

Party in default, after judgment or order to pay money or costs to be proceeded against by *Ca. Sa.* or *Fi. Fa. &c.*

II. Where any person is liable to pay any money or costs upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Cap-*

ias ad Satisfaciendum, or to levy such money or costs out of his property by a writ of *Fieri Facias or Venditioni Exponas*, according to the course and practice of the Court as the same shall be settled by the rules and orders to be made for giving effect to the provisions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

Proviso.

III. The Sheriff shall pay the money which he may levy under any execution either to the party named in the writ in satisfaction of his demand, or into court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

Sheriff how to deal with money levied.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender; or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his principal would have the means of performing; and such person has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means; it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other Officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person by whom the same ought to have been executed, made, or done; and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an Officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have if

Power to the Court to appoint an Officer to execute instrument, or to do any act for the person who has been ordered but has failed to execute or do the same.

it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.

Or in certain cases to dispense with the execution of an instrument, or the signature of a writing.

V. If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its Officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument, or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or signed the same.

The Court empowered to enforce the delivery of any immoveable property or any specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writings, or other articles or things, and to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof the same is issued.

Proviso.

But nothing herein contained shall authorize the Sheriff to disturb the *bonâ fide* posses-

sion of any person other than the person against whom such order is made.

Repeal of 1st and 2nd Sections of Act XXV. of 1841.

VII. The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby repealed.

Power reserved to issue process of contempt to compel obedience to orders which cannot be otherwise enforced.

VIII. Nothing in this Act contained shall prevent any of the said Courts from issuing process of contempt, according to its present course of practice, on its Equity side against the person of any party who has been ordered to do any act other than the payment of money, or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot otherwise be enforced, or against the person of any party who has committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.

Court may frame writs of execution.

IX. It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions hereinbefore contained, and by the Rules or orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.

Interpretation Clause.

X. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

Commencement of the Act.

XI. This Act shall take effect from the 1st day of May next.

PROCESS. OF EXECUTION.—SUPREME COURTS.

ACT No. VI. OF 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of extending operation, &c. writs of execution.

1. (*Clause* 1). *Equitable interests may be seized and sold as well as legal;* (*Cl.* 2.) *and Sheriff may deliver possession; or* (*Cl.* 3.) *sell and convey what cannot be seized or delivered; and* (*Cl.* 4 *&* 5.) *how sale to be notified beyond Calcutta.*

2. *Money due under execution may be raised by mortgage instead of sale.*

3. *Makes Money, bank-notes and other choses in action seizable, and directs what is to be done with them.*

4. *Authorizes seizure of Company's Paper and empowers Sheriff to endorse same, &c.*

5. *Debts not to be sold as heretofore.*

6, 7. *Empowers Court to order shares in Companies to be charged with execution debt; and* (7) *to make property under charge of the Court available.*

8, 9. *Party arrested under ca. sa. for money payable to party may pay same to creditor, his attorney or Sheriff; and* (9) *Sheriff may discharge party under written authority of attorney.*

10. *Sheriff liable for escape only to extent of damage sustained.*

11, 12. *Writs of execution to remain in force only one year, but may be renewed, and how;* (12) *renewal to be evidenced by endorsement.*

13. *Some kind of effects seizable under Sequestration as under fi. fa.*

14. *Interpretation clause.*

An Act to extend the operation of and regulate the mode of executing writs of Execution in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas it is desirable to extend the operation of, and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases, It is enacted as follows:—

Sheriff empowered under any writ of *fieri facias* issued on any side of Supreme Court to seize and sell immoveable property.

I. Clause 1. Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.

Clause 2. The Sheriff under any such writ may put the pur-

When property is in possession of judgment debtor, sheriff to put purchaser in possession.

chaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

When property is not in possession of judgment debtor, Sheriff not to seize but to sell debtors interest.

Clause 3. If the lands, houses or other immoveable property liable to be sold under such writ, be in the possession of any person other than the judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Effect of conveyance.

Sale when to be notified to Judge of District. Proclamation of same.

Clause 4. In such last mentioned case if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause notice of the same to be officially proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Notice of sale when to be published in the office of Collector, &c.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the district within which such property is situate, and also at the Mal Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold. The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. Provided that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bonâ fide* purchaser.

Length of time for publication of notice.

Proviso.

II. If any lands, houses or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions for the execution of such mortgage.

In what case judgment debt may be raised by mortgage instead of sale.

III. Under any such writ of *fieri facias* may also be seized money, bank-notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds, or other securities for money, and also debts belonging to the said person; and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution, any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondees, bonds, or other securities for money as a security or securities for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer, for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid when the time of payment thereof shall have arrived; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the

Sheriff empowered under any such writ of *fieri facias* to seize money, bank-notes, &c.

And to pay money or bank-notes, to execution creditor.

And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange, &c.

And to sue in his own name for amount secured by bills of exchage, &c.

Or for debts.

party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondee, bond, security, and debt; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expences, any surplus shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer.

Proviso as to indemnity for Sheriff.

Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondee, bond, security, or debt unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or, if the Court shall so order, by some other person to be appointed by the Court for such purpose, and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

IV. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose of such Government security through a broker at the market rate of the day; and if the endorsement of such party

Sheriff empowered to receive interest on Government security seized by him.

And to sell, and where endorsement necessary, to endorse such security.

shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D. Sheriff;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly constituted attorney.

No debt to be sold by Sheriff.

V. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.

Shares in public Company may be charged in execution.

VI. If any person against whom any writ of execution shall have issued, shall have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex parte* that such interest in such stock or shares, or such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with the payment of the amount due in respect of such writ of execution; and such order shall have the like effect and entitle the person in whose favor the same is made to the same remedies and priorities as a charge executed in favor of such person by the person against whom execution shall have been issued; and service or notice of such order upon or to the public Company whose stock or shares are the subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have the like effect and shall entitle the person in whose favor such order is made to the same remedies against such public Company or such last mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made or any other person affected thereby, from applying to the Court or Judge by whom such or-

Proviso.

der has been made for its discharge on such grounds as may be just.

Property standing in name of any officer of Court.

VII. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court or of any other officer of the Court, or in the dividends, interest, or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Party arrested under a *Ca. Sa.* entitled to discharge on payment or tender of the amount of levy to opposite party or his attorney or to sheriff or Gaoler.

VIII. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such party or his attorney in the cause, or to the Sheriff or Gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

Written order of attorney issuing *Ca. Sa.* sufficient for the discharge of a party by Sheriff or Gaoler, unless the client shall give written notice to the contrary

IX. A written order under the hand of the attorney in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the Sheriff, Gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, Gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Attorney not justified in giving order for discharge without the consent of his client.

Sheriff not to be liable for escape, &c., beyond the amount of the loss really occasioned.

X. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.

XI. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ, unless renewed in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, by being marked with the seal of the Court and with a memorandum, signed by the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like Seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.

Writ of execution, if unexecuted not to remain in force more than one year unless renewed.

But may be renewed from time to time

Renewed writ entitled to same priority as its original.

Proviso as to writ of *Habere.*

XII. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Production of writ or of notice of renewal sufficient evidence of renewal.

XIII. All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration, shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias.*

Under a writ of sequestration all property may be seized in like manner as under a *fieri facias.*

Sum ordered to be realized may be levied as under a *fieri facias.*

XIV. The words "person" and "party" as used in this Act,

Interpretation clause.

shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts," shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

ARREST ON MESNE PROCESS.

ACT No. VII. OF 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of amending law of arrest.

1. *No arrest to be made without order of Court, &c.*

2. *No order to be made unless Court is satisfied of good probable cause of action; and also* (1) *that defendant has absconded, &c. or* (2) *is about to withdraw, &c. from the jurisdiction; or* (3) *that he has fraudulently removed, &c. property.*

3. *Order for arrest may be made at any stage of cause, &c.*

4. *Judges may require personal attendance of plaintiff, &c. before making order.*

5. *Copy of affidavit for arrest to be delivered to the Sheriff and by him to defendant.*

6, 7, 8. *Party arrested may obtain rule for his discharge, and may be discharged by Judge whenever suit is not prosecuted diligently; and* (7) *when affidavits may be used; and* (8) *at hearing of motion witnesses may be examined.*

9. *Entitles prisoners in custody at time of passing the Act to be discharged, &c.*

10. *Execution creditor to deposit subsistence money with Sheriff; and* (*Cl.* 2) *notice of arrest to be given to plaintiff; and* (*Cl.* 3) *further subsistence money then to be deposited; and* (*Cl.* 4) *amount of deposit may be varied;* (*Cl* 5) *no arrest to be made without a previous deposit; but* (*Cl.* 6) *discharge on account of subsistence money not being deposited not to affect liability of prisoner;* (*Cl.* 8 & 9) *subsistence money expended, to be costs in the cause; and* (*Cl.* 10) *added to the Judgment; and* (*Cl.* 11) *under writ of attachment to form part of demand; and* (*Cl.* 12) *balance unspent to be returned.*

11. *Judge's order for discharge sufficient authority to the goaler, &c.*

12. *Sheriff, &c. to report to Court circumstances of prisoner, &c.*

13. *Rules, &c. under this Act to justify officers, &c.*

14. *Interpretation clause.*
15. *Act not to affect rules of Court, &c. nor Insolvent Debtors' Act.*
16. *A dollar to be equal to two and one-fifth Rupee, and three cents to an Anna.*

An Act to amend the law of Arrest on mesne process in Civil Actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any of the said Courts.

Preamble.

Whereas it is expedient to amend the law of arrest in the Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay and in the Court of Judicature of Prince of Wales' Island, Singapore and Malacca: It is hereby enacted as follows:

No arrest upon Mesne Process without order of Court or Judge.

I. No person shall be arrested or held to bail upon mesne process in any action at law now pending or which shall be commenced in any of the said Courts, unless an order authorizing such arrest be made by the Court in which the action is pending or shall be commenced, or by one of the Judges thereof: and it shall be in the discretion of the Court or Judge in any case to grant or refuse an order.

Granting of order to be discretionary.

No order for arrest to be made without affidavit of debt or damage to the amount of 200 Rupees and probable cause for believing—

II. Provided that no such order shall be made unless the Court or Judge shall be satisfied by Affidavit of the plaintiff, or of some other person, that the plaintiff has a good cause of action against the defendant to the amount of two hundred Rupees or upwards either for debt or for damages, and in addition thereto, that there is probable cause for believing—

That defendant is concealing himself to avoid service of process, or is about to absoond, &c.

1,—That the defendant has absconded or is concealing himself for the purpose of avoiding service of the process of the Court, or that he is about so to do, or—

That he is removing his property to avoid process.

2,—That he has withdrawn or is about to withdraw himself or his property or effects, or some part thereof from the jurisdiction of the Court, for the purpose of avoiding the process of the Court, or under such other circumstances as to induce the Court or Judge to believe that the ends of justice are likely to be

defeated unless a Capias or Warrant of Arrest be issued against him, or—

3,—That he has removed, concealed or disposed of his property or effects, or some part thereof, for the purpose of defrauding his creditors generally or the plaintiff in the action, or that he is about to do so.

That he has disposed or means to dispose of his property to defraud creditors.

III. An order for arrest may be made, and a Capias or Warrant may be issued thereon, in any stage of the cause before final judgment, and against one or more of several defendants.

Order for arrest in any stage of cause and against one of several defendants.

IV. Previously to making such order, the Court or Judge may require the personal attendance of the plaintiff, and of any person who shall make an Affidavit for the purpose of obtaining such order, and of any other person whom the Court or Judge shall think fit to examine, and may examine them orally upon oath.

Before making order Court may examine plaintiff or other person.

V. A copy of every Affidavit upon which such order shall be founded shall be delivered to the Sheriff with the Writ or Warrant to be issued in pursuance of the order, and shall be delivered to the defendant at the time of his arrest or detention under the Writ, otherwise the Court or Judge may order the defendant to be discharged.

Copy of affidavit to be delivered to Sheriff and to be given to defendant at the time of arrest.

VI. Any person arrested or detained upon any such Writ of Capias or Warrant of Arrest, may apply to the Court or to a Judge thereof for a rule or summons calling on the plaintiff to show cause why the person arrested should not be discharged out of custody, and the Court may make absolute or discharge such rule, and may direct the costs of the application to be paid by either party or may make such other order as to the Court shall seem fit; and in the case of a summons, a Judge shall make such order thereupon as he shall think fit. Provided that such rule shall be made absolute, or in the case of a summons an order for the defendant's discharge out of custody shall be made, in every case

Person arrested may apply to Court or Judge for his discharge.

Person arrested to be discharged if plaintiff is guilty of delay after arrest.

in which the Court or Judge shall be satisfied that the plaintiff, in any stage of the cause subsequent to the arrest, has been guilty of unreasonable delay in pleading or in bringing on for trial or argument any issue of fact or law, notwithstanding the delay may not be such as to entitle the defendant to sign judgment of Non Pros., or to apply for judgment as in case of a nonsuit; and provided also that any order made by a Judge under this Act may be discharged or varied by the Court on application made thereto by either party dissatisfied with the order.

Judge's order may be discharged, &c. by Court.

VII. If any motion or application for the discharge of a defendant be made upon Affidavit, but not otherwise, the plaintiff may oppose the same by affidavits in addition to that upon which the order for the arrest was made.

If motion for discharge be made upon affidavit, plaintiff may oppose it by further affidavits.

VIII. The Court or Judge may order and compel the personal attendance at the hearing of any motion or summons of both or either of the parties, and also of any other person whom the Court or Judge shall think fit to examine, and may examine such person or persons orally upon oath, or may allow him or them to be examined and cross-examined upon oath, and the Sheriff or Gaoler shall be bound to bring before the Court or Judge any prisoner detained in his custody on Civil process, whose attendance may be so ordered.

At the hearing of the motion, Court may compel attendance of the parties or witnesses.

Attendance of person in custody on Civil process.

IX. Every person now in custody upon mesne process issued out of any of the said Courts of Judicature for any debt or demand, and who shall not have filed a petition to be discharged under the laws in force for the relief of Insolvent Debtors in India, shall be entitled to his discharge at the expiration of one month from the time of the passing of this Act, upon entering a common appearance to the action: Provided nevertheless, that every such prisoner shall be liable to be detained, or after such discharge to be again arrested by virtue of any writ of Capias or Warrant of Arrest issued in pursuance of the provisions of this Act.

Persons now in custody on mesne process how entitled to their discharge.

Proviso.

X. *Cause* 1.—The person at whose suit any such mesne

Deposit of subsistence money before arrest on mesne or final process or by attachment—amount and application thereof.

process or any writ of execution for the arrest of a defendant or any writ of attachment for the arrest of any person for the non-payment of money in the nature of Civil process shall be issued out of any of the said Courts, shall, previously to the arrest being made, deposit with the Sheriff or other officer to whom such mesne process or writ shall be delivered for the purpose of executing the same, a sum of money sufficient to provide for the subsistence of the defendant for the period of thirty days at the rate of four annas a day, which sum or so much thereof as shall be necessary shall be applied by the Sheriff or other officer for the subsistence of the person arrested from the time of the arrest until he shall be lodged in gaol, and the balance, if any, shall be deposited by such Sheriff or other officer with the keeper of the gaol to which the person arrested shall be committed.

Sheriff to give plaintiff notice of arrest.

Clause 2.—The Sheriff or such other officer by whom an arrest shall be made by virtue of any such writ or process, shall, before or forthwith after the defendant shall be lodged in gaol, give notice of the arrest and of the date on which the same was made to the plaintiff or his attorney.

Further deposit of subsistance money after the arrest and during detainer.

Clause 3.—The person at whose suit such mesne process, writ of execution or attachment shall be issued shall, at or before the end of thirty days from the date of the arrest, or within a reasonable time after he shall have had notice of the arrest, if he shall not have had notice thereof within such period of thirty days, deposit with the Sheriff or with the keeper of the prison in which the person arrested shall be lodged, a further sum at the rate aforesaid for the subsistence of the prisoner for the next ensuing thirty days, and shall continue to make a similar deposit in advance at or before the end of such period of thirty days and of every subsequent period of thirty days during which the prisoner shall be detained in custody, and for every such deposit the Sheriff or keeper of the gaol or other officer as the case may be shall give a receipt for the same dated on the day on which the money shall be paid.

Receipt for deposit.

Clause 4.—It shall be lawful for the Court out of which any

Rate of deposit may be varied by Court out of which writ issues.

such writ shall issue or for any Judge thereof to reduce the rate at which deposits are above ordered to be made, so that the rate ordered be not less than one anna a day, or in the case of illness or other special cause to order the deposit to be increased to a rate not exceeding eight annas a day; and every such order may from time to time be revised and altered by the Court or any Judge thereof on sufficient grounds being shown.

Deposit must be made before arrest.

Clause 5.—If the deposit required to be made previously to the arrest be not made, no arrest shall be made. If any deposit hereby required to be made after the arrest be not made on or before the day on which it ought to be made, the Court may, upon the application of the prisoner, order him to be discharged out of custody.

Person arrested to be discharged if subsequent deposit not duly made.

Such discharge of a prisoner in execution not to affect his liability.

Clause 6.—If any prisoner in execution be discharged out of custody by reason of a failure to make such deposit as aforesaid, the imprisonment shall not extinguish or affect his liability to pay the amount of any sum of money for which he was arrested, or to prevent any execution from being issued against his property.

Provisions of these Clauses to whom applicable.

Clause 7.—The provisions of this Act are to be held applicable to all persons at present in confinement under Civil process, so far as relates to the deposit to be made in future by the parties at whose instance they are confined and to their immediate discharge on failure to make such deposit on or before the day on which it becomes due—The first deposit to be made within thirty days after the passing of this Act.

Deposit to be applied for subsistence of prisoner.

Clause 8.—The money so deposited shall be employed for the subsistence of the prisoner.

Amount spent in subsistence of prisoner detained on mesne process to be costs in the cause.

Clause 9.—The amount spent in providing subsistence for a prisoner detained upon mesne process shall be costs in the cause.

Amount spent in subsistence of prisoner detained in execution to be added to the judgment.

Clause 10.—The amount spent in providing subsistence for a prisoner detained in execution shall be added to the amount of the judgment, and the prisoner shall be liable to be detained in

execution for the amount, in the same manner as if such amount had been included in the Judgment and Writ of execution.

Clause 11.—The amount spent in providing subsistence for any person detained under any such writ of attachment as aforesaid, shall be deemed part of the demand in respect of which the attachment was issued, and shall subject the prisoner to the same liability as if the attachment had been issued for the non-payment thereof to the person making the deposit.

Amount spent in subsistence of person detained under attachment shall be deemed part of the demand.

Clause 12.—All money deposited as aforesaid which shall not have been spent at the time of the prisoner's discharge from custody, shall be returned to the person who made the deposit.

Return of unspent deposit money.

XI. Any order of the Court or of a Judge for the discharge of a prisoner under the provisions of this Act, shall be a sufficient authority to the Sheriff and Gaoler for such discharge, so far as concerns the action or suit to which such order relates. Provided that when an order shall be made for the discharge of a prisoner upon his entering a common appearance, such discharge shall not be made until a certificate shall be produced to the keeper of the prison from the Officer of of the Court with whom appearances are entered, to the effect that an appearance has been entered according to the terms of the order.

Effect of order for discharge of prisoner.

Proviso.

XII. It shall be the duty of the Sheriff and of the keeper of every prison in which any person shall be confined under any such process as above mentioned, to report to the Court out of which the process issued, the name of every prisoner confined under such process who shall appear to be unable to maintain himself in prison or who shall complain that he has been arrested without cause, and it shall be lawful for the Court or a Judge upon any such report to cause the prisoner to be forthwith brought before them, or to make such other order as may seem fit; and the Sheriff shall be bound to serve any rule, summoms or order made under this Act which the Court or Judge shall order him to serve.

Keeper of prison, &c. when to report to Court the name of prisoner—proceedings thereupon.

Service of rule, &c. by Sheriff

XIII. Any rule or order made in pursuance of the provisions

Order under this Act to be sufficient Justification to Sheriff, &c.

of this Act shall be a sufficient justification for any Sheriff, Gaoler or other officer for any act which he may do in pursuance thereof.

Construction of Act.

XIV. In the construction of this Act, the word "Affidavit" and the word "Oath" shall include affirmation in cases where "Affirmation" is allowed instead of an oath, and unless there is anything in the context repugnant to such a construction; words in the singular number shall include the plural, and words in the masculine gender shall include females.

Act not to affect rules of Court not inconsistent herewith, or provisions of Insolvent Debtor's Act.

XV. Nothing in this Act is intended to alter or affect any rule in force in any of the said Courts not inconsistent herewith or any of the provisions of the Act in force for consolidating and amending the law relating to Insolvent Debtors in India.

Equivalents for dollars and cents in the application of Act to the Straits Settlement.

XVI. In the application of this Act in the Settlement of Prince of Wales' Island, Singapore and Malacca, a dollar shall be deemed equal to two rupees and one-fifth of a rupee and three cents shall be deemed equal to one anna.

ADMINISTRATOR GENERAL.

Amended by XXVI. 1860

ACT No. VIII. OF 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of amending the Law relating to the A. G.

1, 2, 3. *In each Presidency there shall be an A. G.;* (2) *to be appointed and removed, &c.;* (3) *in Bengal by G. G. in C., and in Madras and Bombay by the Presidency Government.*

4. *A. G. not to be deemed an officer of Supreme Court.*

5, 6. *Office of Ecclesiastical Reg. at Madras transferred to A. G.; but* (6) *same person may fill both offices.*

7, 8. *A. G. to give security to E. I. C.;* (8) *in lieu of the old administration bond.*

9, 24, 10. *A. G. to have letters of administration; and* (24) *to be granted to him by his name of office, unless claimed by next of kin:* (10) *next of kin are, who.*

11, 12. *One month after death, A. G. to take out letters of administration of assets exceeding Rupees* 500, *unless of a Mahomedan or Hindoo; and* (12) *of*

a Mahomedan or Hindoo, in case the Court is satisfied of danger of misappropriation.

13. *Repeals s.* 20 *of Act* 19, 1841.

14. *Empowers Court to grant letters of administration, if satisfied of danger of misappropriation, whenever the legal successor is not ascertained.*

15. *A. G. may be appointed Official Trustee under Act* 17, 1843.

16. *On an executor's taking out probate, costs of previous letters of administration to be paid out of estate.*

17. *Letters of administration to A. G. to be granted whenever no one appears either as executor or next of kin, except in cases of estates of Hindoos and Mahomedans and in their case only in case of danger of misappropriation.*

18. *Save right of A. G. to apply for letters of Administration within a month.*

19, 20. *Letters of Administration though revoked; and* (20) *acts done under them valid, except as to acts done after notice of will, &c.*

21, 22. *A. G.'s Letters of A. not to be revoked, except within a year, or for a will; and* (22) *costs of revocation to be paid out of estate.*

23. *Payment made by A. G. a year after grant of letters to be allowed as against him, though be payee liable to refund.*

24. *Ante.*

25. *A. G. to sue and be sued by his name of office.*

26, 27, 28, 29. *His Commission to be* 3 *per cent in Bengal and* 5 *in Madras and Bombay;* (27 & 29) *such commission to cover what expences, and one half to be taken on receipt of assets, the other on distribution; and* (28) *in Madras and Bombay may be reduced, &c.*

30. *Executors and private Administrators not to charge commission.*

31. *Prescribes what accounts the A. G. shall keep.*

32, 33. *Empowers Government to make rules for custody of assets, remittance of funds, &c.* (33) *such rules to be published in Gazette.*

34, 35, 36, 39. *A. G. to file and publish half yearly accounts, which are to be audited; and* (36) *audit to be reported to Government; and* (39) *to make special report, when, &c.*

37. *Empowers auditors to summon witnesses, &c. call for books, &c.*

38. *Costs of preparing schedule and of audit to be defrayed out of all the estates rateably.*

39. *Ante.*

40, 41. *What proceedings may be taken on special report of auditors; and* (41) *how costs are to be defrayed.*

42. *Orders of Supreme Courts to have effect of decretal order.*

43, 44, 45, 46. *In estates under value of Rs.* 500, *A. G. may grant person entitled a certificate; but* (44) *not bound to grant it; and* (45) *certificate to be sufficient discharge; and* (46) *Letters of A. not necessary to be taken out in such cases.*

47. *A. G. to be entitled to commission on certificate.*

48. *False affirmations under this Act to be punishable as perjury.*

49. *Trading and trafficking by A. G. to be deemed a misdemeanour.*

50, 51, 52. *Directs certain accumulations in hands of Bombay A. G. to be transferred to E. I. Co.; and* (51) *same in Bengal and Madras; but* (52) *parties interested in such accumulations may recover, and sue.*

53, 56. *Repeals s.* 6 *Bengal R.* 15, 1806 *and s.* 5 *Madras R.* 4, 1809; *and* (56) *Acts* 7, 1849 *and* 2, 1850.

54. *Zillah Judge to report death of British Subject in mofussil to A. G.*

55. *Interpretation clause.*

56. *Ante.*

57. *Excepts from operation of Act, estates of persons subject to Articles of War and persons in the Indian Navy.*

An Act to amend the law relating to the office and duties of of Administrator General.

Preamble.

Whereas it is expedient to amend the law relating to the office and duties of Administrator General, It is enacted as follows:—

Designation of the Administrators General in the three Presidencies.

I. In each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension and removal of Administrators General.

II. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say,

The Administrator General of Bengal, by the Governor General of India in Council.

The Administrator General of Madras, and the Administrator General of Bombay, by the Goverments of those Presidencies respectively.

Continuance of existing incumbents.

III. Any person now holding the office of Administrator General at any of the said Presidencies, shall continue to hold the same, subject to the provisions of this Act.

Administrator General not to be deemed an officer of the Supreme Court.

IV. The Administrator General shall not be deemed in that capacity to be an officer of the Supreme Court.

Letters of administration granted to the Ecclesiastical Registrar of the Madras Supreme Court

V. All letters of administration, which since the passing of Act No. II. of 1850, have been granted by the Supreme Court of Judicature at Fort St. George to the Ecclesiastical Registrar

since Act II. of 1850, and Estates, &c. transferred to Administrator General.

of that Court in virtue of his office, and all estates, effects and interests, books, papers and documents, now vested in, or belonging to the said Ecclesiastical Registrar, or under his control, by virtue of any such letters of administration, are by this Act transferred to and vested in him as Administrator General of that Presidency, and such letters of administration shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act as if they had been granted to him as Administrator General.

The present Administrator General of Madras may hold the office of Ecclesiastical Registrar.

VI. The two offices of Ecclesiastical Registrar of the Supreme Court and Administrator General may be held by the present Administrator General at the Presidency of Fort St. George. With that exception no person now holding the office of Administrator General, or hereafter to be appointed to such office, in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor without the express sanction of Government, any other office, together with that of Administrator General. Provided that nothing in this Act shall prevent the present Administrator General of Bengal from holding the office of Receiver of the Supreme Court of Judicature now held by him.

Otherwise no Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

Proviso.

Security to be given by Administrator General.

VII. Unless the Governor General of India in Council or the Government with the sanction of the Governor General of India in Council shall otherwise order, every Administrator General hereafter to be appointed shall give security to the East India Company for the due execution of his office, for one lakh of Rupees by his own bond and for another lakh of Rupees, or for separate sums amounting together to one lakh of Rupees, by the deposit of Government Securities or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds; provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another previously

Substitution of Security or Sureties.

given for such last mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time, when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound so far as the security shall relate to the due execution of his office for the time then to come.

No Security to be required by Supreme Court on grant of letters to Administrator General.

VIII. No Administrator General shall be required by the Supreme Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

Administrator General entitled to letters of administration,—unless granted to next of kin of deceased.

IX. Any letters of administration, or letters *ad collegenda bona,* which shall hereafter be granted by the Supreme Court of Judicature at any of the said Presidencies, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased; and it is hereby declared that the Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor or friend of the deceased.

Administrator General entitled in preference to creditor or friend

Construction of words "next of kin"

X. The words "next of kin" shall be deemed throughout this Act to include a widower or widow of the deceased, or any other person who, by law and according to the practice of the Courts would be entitled to letters of administration in preference to a creditor of the deceased. Provided that no Ecclesiastical Registrar or other Officer of any of the said Courts, shall, by reason of his office, be deemed entitled to any letters of administration or *ad colligenda bona,* or have any grant thereof made to him.

Ecclesiastical Registrar not to be entitled to administration by reason of his office.

When administration of estates of persons other than Mahomedans or Hindoos is to be by Administrator General.

XI. If any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have left assets exceeding

the value of five hundred Rupees within any of the said Presidencies, or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets exceeding five hundred Rupees within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and no person shall, within one month after his death, have applied for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the Supreme Court of Judicature at such Presidency letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Provided that assets, which any person may be entitled to collect, receive, or dispose of, by virtue of a certificate granted under Act XX. of 1841, shall not be deemed assets within the meaning of this Section.

Proviso as to assets under Act XX. of 1841.

XII. Whenever any person, whether a Mahomedan or Hindoo or not, shall die leaving assets within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at any of the said Presidencies, it shall be lawful for the Court upon the application of any person interested in such assets or in the due administration thereof, either as a creditor, next of kin or otherwise, or upon the application of a friend of any infant who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation of such assets, unless letters of administration of the effects of such person are granted, to make an order directing the Administrator General to apply for letters of administration of the effects of such person.

Upon death of any person leaving assets within local limits, the Court may if assets are in danger direct Administrator General to apply for administration.

XIII. Section XX. Act No. XIX. of 1841 is hereby repealed, except as to acts done and except as to any case in which an order shall have been made before the commencement of this Act.

Repeal of Section 20, Act XIX. of 1841.

XIV. Whenever any person, whether a Mahomedan or Hindoo or not, shall have died leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, and such Court shall be satisfied that danger is to be apprehended of the misappropriation or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one per cent. upon the amount of all personal assets collected or received by him in persuance of such order; and in case letters of administration of any such effects shall be afterwards granted to the Administrator General, the said commission of one per cent. shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section shall entitle the Administrator General to collect and to take possession of such property, and if necessary, to maintain an action for the recovery thereof.

Upon death of any person leaving property within local limits, Court may if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

Rate of Commission payable in such case.

XV. The Administrator General of the Presidency may be appointed an Official Trustee under Act No. XVII. of 1843.

Administrator General may be Official Trustee under Act XVII. of 1843.

XVI. If in the course of proceedings to obtain letters of administration under the provisions of Sec. XI. or Sec. XII. of this Act, any executor appointed by a will of the deceased shall appear according to the practice of the Court and prove the will and accept the office of executor, or if any person shall appear according to

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

such practice and make out his claim to letters of administration as next of kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate, as part of the testamentary expenses thereof.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

XVII. If no person shall appear according to the practice of the Court, and entitle himself to probate of a will, or to a grant of letters of administration, as next of kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General. Provided that, in the case of an application being made under Section XII. of this Act for letters of administration to the effects of a deceased Mahomedan or Hindoo, the Court may refuse to grant letters of administration to any person if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

If no executor or next of kin appear or give necessary security, letters of administration to be granted to Administrator General.

Administration to effects of deceased Mahomedans or Hindoos not to be granted under Section XII unless required to protect the assets.

Costs of unnecessary application.

XVIII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

XIX. If any letters of administration, which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only

Exception.

as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void. Provided that no notice of a will or of any other fact which would render any such letters of administration void shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless within the period of one month from the time of giving such notice proceedings be commenced to prove the will or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Proviso.

XX. If any letters of administration, which shall be granted under this Act, shall be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid, notwithstanding such revocation.

What payments made or acts done by Administrator General prior to revocation of administration upon production of a will, shall be deemed valid.

XXI. If an executor or next of kin of the deceased, who shall not have been personally served with a citation, or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid. Provided that no letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased shall be proved, unless the application for that purpose shall be made within one year after the grant to the Adminis-

In what cases Court may recal Administrator General's administration and grant probate, &c. to executor or next of kin.

Unless a will is proved, application to revoke such administration must be made within one year and without needless delay.

trator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

Costs of obtaining administration, commission, &c. may on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

XXII. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the costs of obtaining such letters of administration and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate.

After one year from grant of administration distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

XXIII. Any payment or delivery of assets to any legatee, or to any person enitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery. Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable, and provided also that no notice of any debt or claim shall affect the Administrator General unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice and be prosecuted without unreasonable delay.

Person receiving payments liable to refund.

What to be notice of debt or claim.

Letters of administration to be granted to Administrator General in virtue of his office.

XXIV. All letters of administration, which shall be granted to any Administrator General in virtue of his office, shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator

Authority given by such letter.

General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as Administrator of the estate to which such letters of administration shall relate; and all estate, effects and interests, which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, shall, upon such resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto; and all books, papers and documents kept by such Administrator General, by virtue of his office, shall be transferred to, and vested in his successor in office.

On death, &c. of Administrator General, estate, &c. to vest in successor.

And office books to be transferred.

XXV. All actions, suits or other proceedings, which shall be commenced by or against any Administrator General, in his representative character, may be brought by or against him by his name of office, and no suit, action or other proceedings already commenced, or which shall be commenced, against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him.

Administrator General to sue or be sued in his representative capacity by his name of office.

Suit not to abate by death, &c.

Proviso.

XXVI. The Administrator General of each of the said Presidencies, under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office, and the Administrator General of Madras under any letters of administration which are

Commission to be received by Administrators General.

vested in him by Section V. of this Act, shall be entitled to receive a commission, at the following rates repectively; *viz:*

The Administrator General of Bengal at the rate of 3 per cent. and the Administrators General of Madras and Bombay respectively at the rate of 5 per cent. upon the amount or value of the assests which they shall respectively collect and distribute in due course of administration.

What expenses, &c., commission is to cover.

XXVII. The commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration.

How payable.

It is thereof enacted, that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration and may be retained by him upon such distribution.

Commission retained to be deemed a distribution.

The amount of the commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

XXVIII. The Governments of the said Presidencies of Fort St. George and Bombay respectively, may, with the sanction of the Governor General of India in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of those Presidencies respectively to be reduced and again to be raised.

Proviso.

Provided that the commission so to be received shall not at any time exceed five per cent. of the assets collected, and that no person now holding the office of Administrator General of either of the said Presidencies of Fort St. George or Bombay shall, by any such order, be deprived of the right to receive and retain for his own use, a commission at the rate of three per cent. in respect of all assets collected and actually administered by him.

XXIX. The Administrator General shall defray all the

Administrator General to defray expenses of establishment and all other charges not expressly provided for.

expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

XXX. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, or by either of the said other Supreme Courts of Judicature since the passing of Act No. II. of 1850, or which shall hereafter be granted by either of the said Courts; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Specific bequest in favour of executors not affected.

Administrator General to keep a separate account-book for each estate, to be open to inspection, &c. on Payment of fee, &c.,

XXXI. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments repectively, which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

XXXII. The Government shall have power, from time to

Government may make and alter rules and orders, consistent with this Act.

time, to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the East India Company at their House in England of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited, pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

For custody of assets.

For remittance of money.

For guidance of Administrator General.

Proviso as to rules now in force.

XXXIII. Such orders shall be published in the official *Gazettes* of the several Presidencies, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Publication of orders, &c.

XXXIV. The Administrator General of each of the said Presidencies shall, twice in every year—that is to say, on the first day of March, and on the tenth day of August, or on the first day on which the Supreme Court of Judicature at the Presidency shall be sitting after those days, or on such other days as the

Administrator General to furnish half-yearly Schedules, &c.

Government shall, by any rules or orders to be published as aforesaid, direct—exhibit and deliver, in open Court, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months, ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such Schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true Schedule of all administrations, whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances, and the persons to whom paid, which Schedules shall be filed of record in such Supreme Court of Judicature, and shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Secretary of the said Presidency, and shall be sent by the Governor thereof to the Court of Directors of the East India Company, in order that the said Court of Directors may, if they think fit so to do, order the same to be deposited at the East India House, London, for public inspection, and may cause notices to be published in the *London Gazette*, and other leading newspapers, that such Schedules are open to inspection there, or may make such other orders respecting the same as they may think fit.

Schedules to be filed and published.

XXXV. The Government shall, from time to time, appoint an auditor or auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

Government to appoint Auditors.

XXXVI. The auditor or auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of everything which ought to be inserted therein, and whether the books which by this Act, are, or which by any such general rules and orders as aforesaid, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have

Auditors to examine Schedule, and report to Government.

been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to have power to summon witnesses and to call for books, &c.

XXXVII. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference: and if the Administrator General or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at the Presidency; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

Penalty for non-attendance.

Costs of preparing Schedule, &c. how to be paid.

XXXVIII. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates, to which such schedules or accounts shall relate, which costs and expenses and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Auditors to report specially to Government, if accounts appear not correct.

XXXIX. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposit-

ed in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, he or they shall report accordingly to the Government.

Proceedings upon such report.

XL. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the Supreme Court of Judicature in the Presidency, by petition for an account, or to compel obedience to this Act, or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, or other person or persons defendants, who shall be bound to answer the same as fully as if the same had been contained in a bill filed for the like purpose; and the Court shall have power upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of reference, &c. how to be defrayed.

XLI. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the Court to have same effect and to be executed in same manner as decretal orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal orders.

XLIII. Whenever any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not and whether before or after the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit, at any time before administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred rupees.

In what case Administrator General may grant certificate.

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take) or by such other evidence as he shall require.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude any executor or administrator of the deceased from recovering from the person receiving the same, the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at

Certificate with receipt annexed to be a sufficient discharge.

Proviso.

liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XLVI. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded five hundred rupees.

Fee for Certificate.

XLVII. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Penalty for false swearing, &c.

XLVIII. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Penalty for Trading.

XLIX. It is hereby declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person or persons whomsoever, unless so far as shall appear to him to be expedient for the due management of the estates of which letters of administration shall be granted to him, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Exception.

Accumulation of interest in the hands of the Administrator General at Bombay to be transferred to the E. I. Company.

L. And whereas it appears from the books and accounts of the Administrator General of Bombay, that, on the thirtieth day of June 1851, there were in in his charge Government Securities and cash, arising from accumulations of interest on estates heretofore administered by or in the

charge of the Ecclesiastical Registrar of the Supreme Court of Judicature at that Presidency, over and above the amount of interest heretofore allowed on the administration of such estates, it is further enacted as follows:—The Administrator General of Bombay shall forthwith transfer and pay the said Government Securities, and cash balance and any other Government Securities and cash which, at the time of the passing of this Act, shall or may be in his charge, or under his control in respect of such accumulations of interest, or any additions thereto, to the Accountant General and Sub-Treasurer of Bombay, to be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the Accountant and of the Sub-Treasurer of Bombay for any monies or securities so paid or transferred to them under the provisions of this Act, shall be a full indemnity and discharge to the Ecclesiastical Registrar and Administrator General for any such payment or transfer.

In the Madras & Bombay Presidencies, the proceeds of Estates unclaimed for 15 years to be transferred to the East India Company.

LI. The net proceeds of all estates in the official charge of the Administrator General of either of the Presidencies of Fort St. George or Bombay, and which now appear, or shall hereafter appear, from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of either of those Presidencies, or from the official books and accounts of either of those Officers, to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed, shall be transferred and paid to the Sub-Treasurer of the East India Company at Fort St. George and Bombay respectively, and be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the said Sub-Treasurer and Accountant General shall be a full indemnity and discharge to the said Administrator General for any such payment or transfer. Provided that this Act shall not authorize any transfer or payment of any such proceeds as aforesaid, pending any suit already instituted, or which shall be hereafter instituted, in respect thereof.

Proviso.

LII. If any claim shall be hereafter made to any part of the

Mode of proceeding by claimant to recover principal money so transferred.

securities, monies, or proceeds which shall be carried to the account or credit of the East India Company under the provisions of this Act, and if such claim shall be established to the satisfaction of the Administrator General and Accountant General to the Government of Fort St. George and Bombay, for the time being, respectively, the said Accountant General shall direct the Sub-Treasurer of the Presidency to pay, and the said Sub-Treasurer shall thereupon pay, out of the monies of the East India Company in his custody, to the claimant, the amount of the principal so carried to the credit and account of the said East India Company, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the Supreme Court at the Presidency against the East India Company and Administrator General of the Presidency for the time being, and after taking evidence, either orally or on affidavit, in a summary way as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, which order shall be binding on all parties to the suit.

Regulations repealed.

LIII. Section VI. Regulation XV. of 1806 of the Bengal Code and Section V. Regulation IV. of 1809 of the Madras Code are hereby repealed.

Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to Administrator General.

LIV. Whenever any British subject shall die leaving personal assets within the limits of the jurisdiction of a Zillah Judge and no will shall be found among the effects of the deceased, it shall be the duty of the Zillah Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge until letters of administration shall have been obtained by the Administrator General or by some other person from the Supreme Court of Judicature, when the property shall be delivered over to the person obtaining such letters of Administration, or in the event of a will being discovered, to the person who may obtain probate of the will.

LV. In the construction of this Act, the word "Government", shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of Fort William in Bengal, or any place subordinate thereto, and the person or persons for the time being administering the Executive Government of the Presidency, so far as the Act relates to the Presidencies of Fort St. George and Bombay respectively; the words "letters of administration" shall include any letters of administration, whether general or limited or with a will annexed, and letters *ad colligenda bona*. Words in the masculine gender shall include the feminine; and words in the singular number shall include the plural, and *vice versâ*; unless where such construction would be inconsistent with or repugnant to the context.

Construction of Act.

LVI. Acts VII. of 1849 and II. of 1850 are hereby repealed as to all letters of administration which shall hereafter be applied for or granted.

Repeal of Acts.

LVII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, or to the estate or effects of any officer, seaman or other person dying in the Marine Service of the East India Company, called the Indian Navy, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary, or other officer having similar powers with regard to the estate or effects of any officer, seaman or other person dying in the Indian Navy; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the Service of the East India Company, or of any Articles of War, or of any Act of Parliament relating to the Indian Navy.

Act not to apply to administration of estates of soldiers or sailors.

LVIII. This Act shall commence and take effect from the 1st day of March 1855.

Commencement of Act.

MADRAS.—APPEAL.—PROCEDURE.

Repealed by X of 1861

ACT No. IX. OF 1855.

[*Passed on the 25th March*, 1855.

Recites expediency of simplifying, &c. procedure on appeal in Madras.

1. *Petition of appeal to be presented within six weeks, and to consist of, what; (Cl. 2) but time may be extended by the Sudder.*

2. *Notice of petition to be given to respondent and proclamation made, &c.*

3. *Directs what papers in the cause shall be sent to the appellate Court; (Cl. 2 & 3) and how parties may obtain others.*

4, 5. *Petition and record to be certified to appellate Court; and (5) grounds of appeal to be filed within 6 weeks afterwards.*

6. *Notice to be given to respondent to file his grounds; and (Cl. 2) grounds to be filed in 4 weeks; and (Cl. 3) respondent may file cross petition of appeal; and (Cl. 4) with it his grounds of appeal.*

7. *Record to be deemed complete at the expiration of allowed time; (Cl. 2) notice of respondent's petition to be given; (Cl. 3) objections to it to be filed in 4 weeks, at end of which record to be deemed complete; and (Cl. 4) both appeals to be heard together unless one is dismissed, &c.*

8. *Respondent not to petition Sudder if he petitioned Court below.*

9. *Grounds of objection to be numbered, and on stamp paper; (Cl. 2) time for filing, may be extended.*

10. *Grounds of objection may be amended, &c.*

11. *Court may hear objections to the appeal before calling up the case for hearing; and (Cl. 2) may hear appeal at any time if on points of law only; and (Cl. 3) first on points of law, if they would be decisive of the case.*

12. *In what manner privilege of appealing in formâ pauperis may be obtained; and how appeal to be carried on.*

13. *On pauper appeal plain paper may be used by both parties.*

14. *Act not to apply to appeals before 1st May* 1855.

An Act for the amendment of Procedure in cases of regular appeal to the Sudder Court in the Presidency of Fort St. George.

Preamble.

Whereas it is desirable to simplify and shorten the procedure in regular appeals to the Court of Sudder Udalut in the Presidency of Fort St. George; It is enacted as follows:—

Petition of regular appeal, when and to what Court to be presented, and what to contain.

I. *Clause* 1*st*. In modification of Clause fifth, Section X. Regulation V. of 1802, every petition of regular appeal in a case appealable to the Sudder Court, shall be presented to the

Court in which the decision was passed within six weeks from the day of the decision. Such petitions of appeal shall, except in cases of petitions under Section XII. of this Act, contain only notice that the party, being dissatisfied with the decision, is desirous of appealing from it.

Time for presenting petition of appeal may be extended. To what Court and how application to be made.

Clause 2nd. The Sudder Court may extend the time for presenting such petition of appeal to the lower Court, upon being satisfied that there is sufficient cause for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the lower Court, at the option of the applicant.

Notice to be given to respondent—and proclamation to issue.

II. On presentation of a petition of regular appeal to the Court in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that Court, and a copy of the proclamation shall be forthwith fixed up in some conspicuous part of the Court House of the said Court. If the notice cannot be personally served, the proclamation shall at once be fixed upon the door of the respondent's dwelling-house, or in some conspicuous place in the village or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the jurisdiction of the Company's Courts, the proclamation may be fixed upon the door of his house of business or cutcherry, or the notice may be served on his known local agent. In case the proclamtion cannot be fixed, or the notice served in the manner above-mentioned, the proclamation shall be fixed up in such other place, if any, as the said last-mentioned Court shall direct. The Nazir shall make a return to the Court stating when and where the notice and proclamation have been served or fixed up. The return of the Nazir shall be filed in Court, and shall form part of the record of the case, and such return shall be published by fixing up the same in some conspicuous part of the Court House of the lower Court.

Service of notice, &c.

III. *Clause 1st.* The rule in Section XI. Regulation V.

Of what original papers copies are to be deposited.

of 1802, which directs copies of all original papers transmitted to the Sudder Court with the record of an appealed case to be made out and deposited in the lower Court, in lieu of the originals, is hereby modified, and it shall be necessary to copy, authenticate, and deposit only the exhibits in the case, and also any other papers of importance, including the pleadings, or any parts of them, which either of the parties shall require to be copied, authenticated and deposited in the lower Court, previously to their being transmitted to the Sudder Court.

Party requiring any papers to be copied to give notice thereof.

Clause 2nd. If either of the parties require any papers to be copied, authenticated and deposited, such party shall, either by himself, or his pleader or authorized agent, give notice in writing thereof to the lower Court, before the expiration of fourteen days from the time of the publication of the return of the Nazir, as aforesaid: such notice shall specify the papers which the party requires to be copied, authenticated and deposited.

Party may give notice of papers to be copied in anticipation of appeal.

Clause 3rd. Either party may, by himself, or his pleader or authorized agent, before the presentation of an appeal, give notice in writing to the lower Court, specifying any papers or documents which he requires to be copied, authenticated and deposited, in the event of an appeal being preferred.

Petition and record when to be certified to the Sudder Court.

Proviso.

IV. The petition of appeal together with the record of the lower Court shall be certified to the Sudder Court as soon as conveniently may be after the presentation of the petition of appeal, provided that the same shall not be certified within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated and deposited.

Notice to appellant to file objections.

V. On arrival of the appeal record at the Sudder Court, notice shall be affixed in the Court House of the said Court, requiring the appellant to file, within six weeks from the date thereof, his grounds of objection to the decision of the Court below. Within the said space of six weeks, the appellant shall file in the said Sudder Court his grounds of objection to the decision.

VI. *Clause 1st.* On the filing of the grounds of objection by the appellant, notice shall be affixed in the Court House of the Sudder Court, requiring the respondent to file his grounds of objection, if any, to the appeal, or to the decision of the lower Court, within four weeks from the date of such notice.

Notice to respondent to file objections.

Clause 2nd. Within the said space of four weeks, the respondent shall file any grounds of objection which he has to the appeal, or which relate to such parts of the decision as are involved in the appeal.

When respondent to file objections.

Clause 3rd. If the respondent shall desire to object to any part of the decision of the lower Court not involved in the appeal he may present a separate petition of appeal to the Sudder Court within the said space of four weeks, or within such further time as the said Sudder Court shall allow for that purpose.

In what case respondent may file a separate petition of appeal.

Clause 4th. The respondent shall, in such case, file with his petition of appeal, his grounds of objection to that part of the decision to which his appeal relates: otherwise his appeal shall not be received.

Grounds of objection to be filed therewith.

VII. *Clause 1st.* At the expiration of the time allowed to the respondent for filing his grounds of objection, and for filing a separate petition of appeal in the Sudder Court, the record shall be deemed complete, and the case ready to be called up for decision, on any day which the Sudder Court may notify, unless the respondent, within such time file a separate petition of appeal in the Sudder Court.

Record when to be deemed complete.

Clause 2nd. If the respondent file a separate petition of appeal in the Sudder Court, notice shall be fixed up in the Court House of the Sudder Court, to the effect that the respondent has filed such separate appeal; and the notice shall require the appellant to file any grounds of objection which he may have thereto, within the space of four weeks from the date of the notice.

Notice of separate petition of appeal to be given.

Clause 3rd. Within such space of four weeks, the appellant may file any grounds of objection which he has to such appeal, or which relate to that

When appellant to file objections.

part of the decision which is involved in the respondent's appeal. At the expiration of the time allowed for filing such grounds of objection by the appellant, the record shall be deemed complete, and the case ready to be called up for decision on any day which the Sudder Court shall notify for that purpose.

Record when to be deemed complete.

Clause 4th. If the appeal of either party be dismissed, or withdrawn, the appeal of the other may be heard alone; otherwise the two appeals, and the proceedings thereon, shall form one record, unless the Sudder Court shall otherwise order.

Hearing of appeals.

VIII. The respondent shall not be allowed to present a separate petition of appeal in the Sudder Court, if he shall previously have presented a petition of appeal to the lower Court.

In what case respondent not to present a separate petition of appeal.

IX. *Clause 1st.* All grounds of objection, which shall be filed by either the appellant or the respondent, shall be stated distinctly and concisely, without any argument or narrative of facts and shall be numbered consecutively, and, except in the cases hereinafter mentioned, shall be on paper bearing the stamp duty prescribed by Section XIX. Regulation XIII. of 1816.

Objections to be distinctly stated, and to be numbered.

Also to be written on stamped paper.—Exception.

Clause 2nd. The Sudder Court may extend the time for filing grounds of objection either by an appellant or respondent, upon special application for that purpose, and upon sufficient reasons being shown, to the satisfaction of the said Court, for such extension of time. In such case, the objections may be filed within such extended time.

Sudder Court may extend the time for filing objections.

X. Either party may, by leave of the Sudder Court or any Judge thereof, at any time before the hearing, amend his grounds of objection, or add grounds of objection to those filed, upon such terms and conditions, and within such time as the said Court or Judge may order. The said Court may also, upon the hearing of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge, and be heard by himself

By leave of the Sudder Court, grounds of objection may be amended or added. The parties, but not the Court, to be confined to the objections filed.

or his pleader, in support of any objection not included in his grounds of objection, upon such terms and conditions as to postponement of the cause, and as to the payment of costs or otherwise, as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise, or otherwise. Without such leave of the Court, neither party shall be allowed to urge or to be heard in support of any objection not included in his grounds of objection filed. But the Court shall not be confined to such grounds of objection in deciding the cause.

Sudder Court may fix a day to hear and determine objections to the appeal before hearing the appeal.

XI. *Clause 1st.* The Sudder Court may call up for hearing and decision on any day the Court shall notify, and without regard to the place in which the case stands in the general list of appeals, any grounds of objection filed by the respondent, or the appellant, to the appeal of the opposite party; and the Sudder Court may hear and decide upon such grounds of objection, before calling the case up for decision, upon the grounds of objection to the decision of the lower Court.

Appeal involving objections of law only may be heard and decided at any fixed time without regard to its place in the list of appeals.

Clause 2nd. If the grounds of objection filed by the appellant and respondent shall be upon points of law only, and shall not raise any question of fact, the Sudder Court may order the case to be called up for hearing and decision on any day which the said Court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said Court.

Appeal involving objections of law and fact how to be heard.

Clause 3rd. If the grounds of objection filed shall raise questions of law and fact, and it shall appear to the Sudder Court that the decision of the law may render it unnecessary to determine any question of fact so raised, the Court may order the case to be called up for decision upon the law alone in the first instance, in the manner pointed out in the last preceding Section; and if the decision of the case upon the law shall render it unnecessary to determine any question of fact, the said Court shall pass a final decision in the case; otherwise the Court shall determine the law only, and the case shall be afterwards set down in the list of regular appeals for hearing upon the

question or questions of fact, and shall be determined in the same manner as any other regular appeal.

Appeal *in formâ pauperis.*

XII. If any party to a regular suit be desirous of being admitted to appeal *in formâ pauperis* to the Sudder Court, the following procedure shall be adopted:

Petition when to be presented.

Clause 1*st.* The appellant shall present his petition to the lower Court according to the rules prescribed by Section I. of this Act, provided that a petition to appeal *in formâ pauperis* against any decision passed before this Act shall come into operation may be presented within three months from the day of the decision.

Proviso

Form of petition.

Clause 2*nd.* Petitions of appeal by parties desirous to appeal *in formâ pauperis* shall contain a statement to that effect, and also a Schedule of the whole real and personal property belonging to the petitioner, and the estimated value of such property, and shall be written on paper bearing the stamp duty of two rupees per sheet.

Notice thereof and Proclamation.

Clause 3*rd.* Upon the presentation of such petition, the notice to the respondent and the proclamation shall state that the appellant desires to appeal *in formâ pauperis.*

Procedure on such appeal.

When Sudder Court is to determine whether appeal shall be *in formâ pauperis.*

Clause 4*th.* On arrival of the appeal record at the Sudder Court, the same procedure shall be adopted in that Court as in other cases of regular appeal, except that, after the filing of the grounds of objection by the appellant, and before notice shall be given requiring the respondent to file his grounds of objection, the Sudder Court shall determine, according to the rules now applicable to the determination of such cases, whether or not the appellant shall be allowed to appeal *in formâ pauperis.*

Notice to respondent to file objections to pauper appeals.

Clause 5*th.* If the Sudder Court allow the petitioner to appeal *in formâ pauperis,* notice shall be given to the respondent to file his grounds of objection in the manner provided by

Section VI. of this Act, and the same procedure shall be adopted subsequently thereto as in other cases of regular appeal under this Act. The rules and conditions now applicable to persons admitted by the Sudder Court to appeal *in formâ pauperis* shall continue in force, except where the same are inconsistent with any of the provisions of this Act.

Rules of Sudder as to pauper appeals to continue in force, except where inconsistent with this Act.

Clause 6th. If the Sudder Court refuse to allow the petitioner to appeal *in formâ pauperis*, the said Court may make an order to the effect that the appellant, upon filing a petition of appeal in that Court upon paper bearing the stamp duty prescribed by Section XIII., and Clause 2, Section XXIII., Regulation XIII. of 1816, and upon refiling his grounds of objection on paper bearing the stamp duty prescribed by Section XIX. and Clause 2, Section XXIII. of the same Regulation, may proceed with the appeal according to the rules prescribed by this Act in the case of persons not appealing as paupers.

What order may be made upon refusal to allow appeal *in formâ pauperis*.

Clause 7th. Upon such order being made the appellant shall file his petition, and refile his objections upon paper stamped with the stamp duty required by Clause 6th of this Section, within two weeks from the date of such order, or within such further time as the said Court may allow for that purpose; otherwise the appeal shall stand dismissed.

Appellant how to proceed upon such order.

Clause 8th. Upon the re-filing of the grounds of objection according to the provisions of the last preceding Clause, notice of the order and of the re-filing of such objections shall be given to the respondent in the manner prescribed by Section VI. of this Act, and the respondent shall be required to file his grounds of objection, if any, according to the provisions of that Section. The procedure susequent to such notice shall be according to the general provisions of this Act.

Notice of order to be given to respondent. Subsequent procedure thereon.

Clause 9th. If an appellant shall petition to appeal *in formâ pauperis*, his grounds of objection may be written on plain paper.

In pauper appeals appellant's objections may be on unstamped paper.

XIII. If an appellant shall be admitted to appeal, or a

All subsequent objections may be on unstamped paper.

respondent to defend *in formâ pauperis*, all grounds of objection subsequently filed by either party may be written on plain paper.

Act not to be retrospective.

XIV. The provisions of this Act shall not apply to regular appeals preferred before the 1st day of May 1855.

MADRAS AND BOMBAY.—WITNESSES.

All save IX & X repealed by X of 61.

ACT No. X. OF 1855.

[*Passed on the 21st March*, 1855.

Recites expediency of amending law relating to attendance, &c. of witnesses.

1. *Repeals S.* 22, *R.* 7, *and S.* 8 *R.* 12, *of* 1809 *of Madras Code; and S.* 40 *of Act* 19, 1853.

2, 3. *Summons of witnesses to issue only on special grounds; and* (3) *Court may order notice of application for summons to be given.*

4. *Grounds for summons may be sent in writing: and* (*Cl.* 2) *if false, the party punishable.*

5, 6. *Court may refuse summons on grounds; but* (6) *must issue it, if no cause shown.*

7. *Parties themselves to be examined only in open Court except by consent.*

8. *On default of parties themselves appearing as witnesses; &c. the consequences may be, what.*

9. *Witnesses not bound to produce their own title deed, except, when.*

10. *Persons not attending as witnesses, to be liable to action for damages.*

11. *Court to exercise its discretion as to postponing cause for nonattendence of witnesses.*

12. *Oral evidence to be taken down in open Court, in narrative form and deposition to be signed by witness.*

13. *Court may issue commission to examine women entitled to privilege.*

14. *Parties to suit to be examined in same manner as witnesses.*

15. *Interpretation of word witness.*

16. *Order on application for summons not appealable.*

17. *Documents referred to in pleadings to be filed unless excused.*

18. *Interpretation clause.*

19. *Act to come into operation,* 1*st May* 1855.

An Act to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX. of 1853.

Preamble.

Whereas it is expedient to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX. of 1853; It is enacted as follows:

Repeal of former Regulations, &c

I. Section XXII. Regulation VII. of 1809 and Section VIII. Regulation XII. of 1809 of the Madras Code, and Section XL. Act XIX. of 1853, are hereby repealed.

Special application to compel attendance of party to a suit as a witness.

II. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall, by himself or his pleader, make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application; otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the trial, the application shall be made before such day shall be fixed.

Court may require notice to be given to a party to show cause why he should not attend.

III. The Court, upon the application of the pleader of any party to a suit whose attendance as witness is required, or without such application, if the Court think fit so to do, may, before making such order, cause notice to be given to the party or his pleader fixing a day for such party to show cause why he should not attend and give evidence, and may also, from time to time if necessary, for good and sufficient cause, enlarge the time for such purpose.

Written declaration of party receivable.

IV. *Clause* 1.—In support of the cause shown, the Court shall receive a declaration in writing of the party, if signed by him, and delivered into the Court by himself or his pleader.

Penalty for false statement.

Clause 2.—If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

V. The Court need not compel the attendance of any party

Court not to compel attendance of party to a suit to give evidence, if satisfied that he has no personal knowledge and that he cannot give material evidence.

to a suit for the purpose of giving evidence therein, if such party shall satisfy the Court that he has no personal knowledge of any material subject of enquiry in the suit, and that he cannot give material evidence therein.

Summons to issue if no sufficient cause shown.

VI. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence.

Mode of examining party to a suit who offers himself as a witness.

VII. No party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open Court, in such manner as the Court may direct, having regard to the usages and customs of the country, unless such examination shall be taken under, and subject to the Rules prescribed by Section XII. or XIV. of this Act.

Proviso.

Penalty for non-compliance with summons.

VIII. If any witness, being a party to a suit to whom any summons to give evidence or produce a document shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, the Court instead of proceeding in the manner provided by the laws in force in the Presidency in respect of defaulting witnesses, may, if the witness be a plaintiff, appellant, or petitioner, dismiss the complaint, appeal or petition, with costs against such party, or if such party be a defendant or respondent, may hear and decide the case against such defendant or respondent *ex parte*. If any such complaint, appeal or petition shall be dismissed for such cause, the complainant or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter.

In what case a witness not being a party to the suit in which he is summoned is bound to produce his title-deeds.

IX. A witness not a party to the suit or proceeding in which he is summoned shall not be bound to produce his own title-deeds, unless he shall have agreed in writing with the party

requiring the production thereof, or with some person through whom he claims to produce such deeds.

Person not obeying summons, &c. liable for damages in a civil action.

X. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings to which he would otherwise be subject, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in a civil action.

Postponing case on account of non-attendance of witness, &c.

XI. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness who may neglect or refuse to attend, or who shall abscond or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case:

Proviso.

provided that, when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence or produce the document required, and that, where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce document the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.

XII. In every regular or summary suit, appeal or proceeding in any of the Civil Courts of the East India Company, and also in every summary suit or other proceeding of a Civil nature before any Court, Officer, or other person having by law or consent of parties authority to examine witnesses, the evidence of the attending witnesses shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for doing so, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanor of any witness whilst under examination. Provided that it shall not be necessary to take in writing the evidence of witnesses in cases tried by District Moonsiffs in the said Presidency of Fort St. George when the claim shall not exceed 20 rupees, or in cases tried by Village Moonsiffs in the same Presidency.

Oral evidence how to be taken.

Proviso.

XIII. In cases where the evidence is needed of females, who, according to the custom of the country, ought not to be compelled to appear as

Evidence of Purdah Nusheen women

witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the custom and usage of the country, and with liberty to the parties or their vakeels to cross-examine, anything in Section V. Act VII. of 1841 to the contrary notwithstanding.

By what rules a party to a suit is to be examined, and how punishable for false evidence.

XIV. Any party to a suit, appeal or proceeding, who may be examined as a witness therein, shall be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.

Interpretation of word "witness" in Act VII. of 1841.

XV. The words "witness" and "witnesses" in Act VII. of of 1841 shall respectively include any party or parties to a suit, and the said Act shall be read as if the words "or parties" had been used in such Act, in conjunction with the words "witness" or "witnesses" respectively. Provided that the deposition of a party taken under the provisions of this Section, at the instance of any opposite party, may be read in evidence by, or on behalf of such last mentioned party, without the proof required by Section V. of the said Act. Provided also that no deposition of any party taken under the provisions of this Section shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion or any reference to the suit, at so great a distance from the Court, that, in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence, in which last-mentioned case it shall be discretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.

Proviso.

No appeal from Judge's order as to summons, &c.

XVI. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.

Document referred to in pleading to be filed.

XVII. If any party to a suit in any Civil Court of the East India Company in either of the said Presidencies or in the Presidency of Fort William in Bengal shall, in any plaint, answer or other pleading, refer to any document in his possession or power, not being a shop book or book of account, as a material proof or document in support of his claim or defence, he shall file such document with such plaint, answer or other pleading, and no such plaint, answer or other pleading shall be received without such document, unless, upon good and sufficient cause shown, the Court shall excuse its non-production or enlarge the time for producing it; and any adverse party shall be entitled, by himself or his vakeel, to inspect and take a copy of the document.

Interpretation Clause.

XVIII. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company and the word "Judge" shall include any officer or person having, by law or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal or proceeding; the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding, or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versâ*.

Act when to operate.

XIX. This Act shall come into operation on the 1st day of May 1855.

MESNE PROFITS AND IMPROVEMENTS.--ENGLISH LAW.

ACT No. XI. OF 1855.

[*Passed on the 27th March*, 1855.

Recites expediency of limiting title to mesne profits.

1. *Bonâ fide payment of rents, &c. to person of whom the payer held, to be valid against claim of any other person.*

2. *Person evicted from lands by owner having superior title, to be paid for improvements.*

3. *Act applicable only to cases under English Law.*

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.

Preamble.

Whereas it is expedient, in cases to which the English Law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them; It is enacted as follows:—

No person to be chargeable with rent *bonâ fide* paid to a holder under defective title.

I. No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made, had no right to receive such rents or profits.

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

II. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their undertenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof irrespective of the value of such building or improvement. Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

Value how to be estimated.

III. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Act to apply only to cases governed by English Law.

EXECUTORS AND ADMINISTRATORS.

ACT No. XII. OF 1855.

[*Passed on the 27th March*, 1855.

Recites expediency of making certain wrongs survive to or against executors.

1. *Personal representatives of deceased may sue for wrongs committed in deceased's lifetime, whereby his estate suffered loss: and may be sued for wrongs committed by him; action to be brought within a year after death.*

2. *Actions under this Act not to abate by reason of death of any party.*

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.

Preamble.

Whereas it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such Executors, Administrators or Representatives; It is enacted as follows :—

Executors may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person; and further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death, and so as such action shall be commenced within two years after the committing of the wrong; and the damages to be recovered in such action shall, if recovered against an Executor

or Administrator bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

Death of either party not to abate suit.

II. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the Executors, Administrators or Representatives of the party deceased. Provided that, in any case in which any such action shall be continued against the Executors, Administrators or Representatives of a deceased party, such Executors, Administrators or Representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

Proviso.

COMPENSATION FOR DESTRUCTION OF LIFE.

ACT No. XIII. OF 1855.

[*Passed on the 27th March*, 1855.

1, 2. *Gives action for damages where death ensues from wrongful Act of another, although amounting to felony: damages recovered to be part of the personal estate of deceased. And such action to lie against executors, if wrong-doer dead; but* (2) *only one such action to be brought; and damage may be recovered for loss to estate.*

3. *Plaint to give full particulars of cause of action, &c.*

4. *Interpretation clause.*

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Preamble.

Whereas no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows;—

Action for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

I. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action, and recover

damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator or Representative of the person deceased; and in every such action the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

Not more than one action to be brought to be commenced within 12 months.

II. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject matter of complaint, and that every such action shall be brought within twelve calendar months after the death of such deceased person; provided that in any such action or suit, the Executor, Administrator or Representative of the deceased may insert a claim for, and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.

Claim for loss to the Estate may be added.

Plaintiff shall deliver particulars, &c.

III. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered,

Construction of Act.

IV. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say, words denoting the singular number are

to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

MADRAS.—MILITARY BAZARS.

ACT No. XIV. OF 1855.

[*Passed on the 27th March*, 1855.

Only persons registered as Military bazar-men within Military cantonments allowed to sue in Court of Superintendent of Police.

An Act for the better regulation of Military Bazars in the Presidency of Fort Saint George.

Preamble.

Whereas it is desirable to extend the provisions of Act XII. of 1842 to persons suing for the recovery of debts before Superintendents of Police, under the provisions of Regulation VII. of 1832 of the Madras Code; It is enacted as follows:

Debt, &c. not recoverable under Clause 3 of Section XXI of Regulation VII. 1832 of Madars Code, unless person suing have been registered as a Military Bazar-man.

I. No person residing within the limits of any Military Cantonment, or carrying on any trade or business therein, shall be allowed to recover in the Court of the Officer in charge of the Police, under the provisions of Clause 3 Section XXI. of Regulation VII. of 1832 of the Madras Code, any debt contracted in the way of trade, or for the loan of money, within any such Cantonment by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting thereof have been registered as a Military Bazar-man within any such Cantonment.

BOMBAY.—POLICE.

Repealed by XVII of 62

ACT No. XV. OF 1855.

[*Passed on the 27th March*, 1855.

1, 2. *G. of B. in C. may appoint a Joint Police Officer under R.* 3 *of* 1833; *and* (2) *may exempt any Joint Police Officer from s.s.* 2 *and* 3, *of said Regulation.*

An Act to amend Regulation III. of 1833 of the Bombay Regulations.

Preamble.

Whereas the restriction of the appointment of Joint Police Officers, under Regulation III. of 1833 of the Bombay Code, to certain Towns has been found to be inconvenient; It is enacted as follows:

Government may appoint Joint Police officers to districts, &c.

I. It shall be competent to the Governor in Council of Bombay to appoint a Joint Police Officer or Officers to any district of that Presidency, under the provisions of Regulation III. of 1833; and every Joint Police Officer so appointed shall be subject to all the provisions of Regulation III. of 1833, in the same manner as if the words "or districts" had been used in conjunction with the word "Towns" throughout that Regulation.

And exempt them from the provisions of Sections II. and III. Regulation III. of 1833.

II. It shall be lawful for the Governor in Council to exempt any Joint Police Officer from the provisions of Sections II. and III. of the said Regulation.

BOMBAY.—BADGES.

Repealed by XVII of 62

ACT No. XVI. OF 1855.

[*Passed on the 27th March*, 1855.

1. *Repeals s.* 6, *C.* 3, *R.* 23 *of* 1827.

2. *Prohibits the wearing of belts and badges, &c. resembling those worn by servants of Government, or any not bearing in current language the name of the employer.*

3. *Establishes fine not exceeding* 100 *Rs. for offence.*

An Act to amend the Law in force in the Presidency of Bombay concerning the use of Badges.

Preamble.

Whereas it is expedient to amend the provision of the Bombay Code which prohibits the use of badges by persons not in the employ of Government

It is enacted follows:

Regulation repealed.

I. Section VI. Chapter 3 Regulation XXIII. of 1827 of the Bombay Code is repealed.

Badges worn by persons not servants of Government to bear the employer's name, &c.

II. No person, not being a servant of Government, shall wear any belt or badge intended to resemble any belt or badge worn by servants of Government, or any badge not bearing, in the characters of a language current in the district in which it is worn, the name or designation of the party by whom the wearer is employed.

Penalty.

III. Whoever commits, or is accessary to the commission of, an offence under the preceding Section shall, whether a British subject or not, be liable, on conviction before any person lawfully exercising the powers of a Magistrate or Justice of the Peace, within whose local jurisdiction the offence is committed, to a fine not exceeding one hundred rupees.

STRAITS SETTLEMENTS.—COPPER CURRENCY.

ACT No. XVII. OF 1855.

[*Passed on the 29th May*; 1855.

Recites that Company's rupee is a legal tender in the Straits Settlements, but not copper coin except half pice.

1. *Repeals s.s.* 1, 2, *and* 5 *of Act* 6, 1847 *as to pice, double pice and pies; and extends s.s.* 1, 2, *and* 4 *of Act* 22, 1844 *to Straits Settlements.*

2. *Pice to be legal tender for* 140*th, double pice for* 70*th and pie for* 420*th, and a half pice for* 280*th part of a dollar.*

3. *Copper coins to be legal tender only for fractional parts of a rupee or dollar.*

An Act to improve the law relating to the Copper Currency in the Straits.

Preamble.

Whereas the Company's Rupee is by Act XVII. of 1835 a legal tender in satisfaction of all engagements in the Settlement of Prince of Wales' Island, Singapore, and Malacca, but no copper coin, except the

half pice issued under Act XI. of 1854, is now by law legal tender for fractions of a Rupee in that Settlement; and it is expedient to remedy this defect in the law; and whereas beisdes the Rupee the Dollar is by custom current in the said Settlement; and it is therefore expedient to provide that the copper currency which will be legal tender in the said Settlement for fractions of a Rupee shall also be legal tender in the said Settlement for fractions of a Dollar: It is enacted as follows:—

Acts repealed.

I. Sections I., II., and V. of Act VI. of 1847 are hereby repealed, in so far as they relate to copper pice, double pice, and pies coined in accordance with Act XXII. of 1844 or Act XXI. of 1835: but in so far as they relate to all other copper coins, the said Sections shall remain in full force. And the provisions of Sections I., II., and IV. of Act XXII. of 1844, so for as they are now in force, are hereby extended to the Settlement of Prince of Wales' Island, Singapore, and Malacca, where they shall have effect, any thing in Act VI. of 1847 to the contrary notwithstanding.

Pice legal tender for Dollars

II. From and after the first day of July 1855 within the said Settlement, a pice coined according to Act XXII. of 1844 shall be legal tender for one one hundred and fortieth part of a Dollar, and a double pice so coined shall be legal tender for one-seventieth part of a Dollar; and a pie so coined shall be legal tender for one four hundred and twentieth part of a Dollar; also a half-pice coined according to Act XI. of 1854 shall be legal tender for one two hundred and eightieth part of a Dollar.

Proviso.

III. Provided always, and it is hereby enacted that no copper coins within the said Settlement shall be legal tender except for fractions of a Rupee, or fractions of a Dollar.

PARDONS AND REPRIEVES.

ACT No. XVIII. OF 1855.

[*Passed on the 6th June*, 1855.

Recites doubts as to power of Government to grant pardons, &c. to convicts of H. M.'s Courts, and consent of H. M. to the passing of this Act.

1. *Empowers the Presidency Governments to grant pardons, reprieves, &c.*

2, 3. *Saves the provisions of* 16 *and* 17 *V. c.* 95 *and* 17 *and* 18 *V. c.* 77; *and* (3) *the prerogative right of the crown to grant pardons, &c.*

An Act to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of Punishments in India.

Preamble.

Whereas doubts have arisen as to the power of the several Executive Governments in India to remit punishments awarded by Her Majesty's Supreme Courts of Judicature, and it is desirable that all doubts respecting the power to pardon or reprieve or grant remissions of punishment should be removed; It is declared and enacted as follows: (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of an Act passed in the 17th year of the reign of Her said Majesty, entitled "An Act to provide for the Goverment of India.")

Executive Government of a Presidency declared to have power to grant pardons for offences committed therein.

Or to remit punishment awarded by Supreme Court of Judicature or any other Court, &c., in respect of such offences.

1. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the Territories in the possession and under the Government of the East India Company have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature or by any other Court or Officer exercising jurisdiction within the said Territories.

Act not to affect the provisions of the Statutes empowering the Governor General in Council to limit the authority of Lieutenant Governors, &c.

II. Nothing in this Act shall be construed to interfere with the provisions contained in the Statutes of the Imperial Parliament 16 and 17 Vic. c. 95 and 17 and 18 Vic. c. 77, or any other Statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant-Governors and other persons therein named; and in every such case, the aforesaid power of granting pardons and reprieves and remissions of punishment in case, and so far as

The power of granting pardons, &c. may be exercised by the Governor General in Council,

so far as it is excepted from the authority of Lieutenant-Governors, &c.

the same may be excepted from the authority of the said Lieutenant-Governors or other persons, may be exercised by the Governor General of India in Council.

Act not to interfere with the prerogative of the Crown to grant pardons.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons or reprieves or remissions of punishment in any of the cases above-mentioned.

MADRAS.—DISTRICT MOONSIFFS.

ACT. No. XIX. OF 1855.

[*Passed on the 24th July*, 1855.

1. *Repeals s.* 7, *cl.* 3; *s.* 12 *cl.* 1, *part of cl.* 2; *s.s.* 29 *and* 40, *R.* 6, 1816, *Madras Code.*

2, 3. *Modifies s.* 11, *cl.* 1, *R.* 6, 1816; *and* (3) *s.* 22, *of same Regulation.*

4, 5. *Empowers District Moonsiffs to enforce the attendance of witnesses; and* (5) *to try and punish persons resisting their process.*

6, 7. *Extends to D. M.'s Courts s.* 10, *cls.* 2, 3 *and* 4, *R.* 15, 1816; *also* (7) 6, *cl.* 2, *R.* 15, 1816, *as respects reviews of judgment except as to stamp.*

8. *Orders of D. M. appealable to Zillah Judge.*

An Act to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George.

Preamble.

Whereas it is expedient, for the better administration of justice, to amend the law relating to District Moonsiffs in the Presidency of Fort St. George, It is enacted as follows:—

Certain parts of Regulation VI of 1816 of the Madras Code repealed.

I. Clause 3rd Section VII.; Clause 1st Section XII.; and so much of Clause 2nd of the same Section as prohibits District Moonsiffs from trying suits in which persons employed in their Cutcherries may be parties; Section XXIX; and Section XL. Regulation VI. of 1816 of the Madras Code—are repealed.

Clause 1st Section XI. of the same Regulation modified.

II. Clause 1st Section XI. of the said Regulation is modified as follows:—Any suit cognizable by a District Moonsiff's Court may be heard and determined by any such Court to which it may be preferred, when the cause of action shall have arisen

of the Defendant, at the time of the commencement of the suit, shall reside, as a fixed inhabitant, within the local limits of the jurisdiction of the Court; provided that, if an action be brought against several Defendants, of whom one shall be resident, as a fixed inhabitant, within the local limits of the jurisdiction of the Court, within the jurisdiction of which the cause of action shall have arisen, the action shall be brought in that Court.

Power of District Moonsiffs to require security from Defendants, &c.

III. Section XXII of the said Regulation is modified as follows:—District Moonsiffs are empowered, when they think fit, to require security from Defendants, in preference to attaching their property under the circumstances described in the aforesaid Section, and to release property attached, on sufficient security being tendered by Defendants.

Powers of subordinate Zillah Courts for enforcing the attendance of witnesses may be exercised by District Moonsiffs.

IV. All powers which may be lawfully exercised by subordinate Zillah Courts for enforcing the attendance of witnesses summoned to appear in such Courts, may be exercised by District Moonsiffs for enforcing the attendance of witnesses summoned to appear in their Courts.

Penalty for resisting process.

V. On a complaint made to a District Moonsiff, on oath or solemn affirmation, that any person within his jurisdiction has resisted any process of his Court, the District Moonsiff may summon such person to answer to the charge, and, if the offence be proved to his satisfaction, may adjudge the offender to pay a fine not exceeding Fifty Rupees, commutable to imprisonment for a term not exceeding one month in the Civil Jail, or in any place appointed by the Executive Government for the confinement of prisoners in civil cases.

Repealed by XVII/62

Clauses 2, 3, and 4 Section X. Regulation XV of 1816 of the Madras Code extended to District Moonsiffs' Courts.

VI. Clauses 2nd, 3rd, and 4th Section X. Regulation XV. of 1816 of the said Code shall be applicable to the Courts of District Moonsiffs.

Also part of Clause 2 Section VI. of the above Regulation.

VII. Clause 2nd Section VI. Regulation XV. of 1816 of the said Code, relating to reviews of judgment, shall be applicable to the Courts of District Moonsiffs, except that the petition for a review need not be written upon stamped paper. Provided that,

Proviso.

if a District Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge of the Zillah, who may permit such review, under the same rules as are prescribed in regard to similar applications to the Court of Sudder Adawlut.

All orders of District Moonsiffs under this Act open to appeal.

VIII. All orders which may be passed by a District Moonsiff under this Act are open to appeal to the Zillah Judge, if preferred within the time fixed for regular appeals.

MADRAS.—BOUNDARY MARKS.

Repealed by XXVIII of 1860

ACT No. XX. OF 1855.

[*Passed on the 24th July*, 1855.

1, 2, 3, 4. *Empowers Collector, &c. to fix boundaries of fields, &c.* (2) *giving notice to conterminous holders: and* (3) *on default of owners, &c. to erect and repair boundary marks: how costs are to be apportioned; and* (4) *Government to pay the cost, in case of unoccupied fields.*

5. *Establishes penalty for erasing, removing or injuring boundary marks.*

6. *Persons objecting to a boundary being fixed may complain to Collector, &c.*

7. *Establishes penalty against occupiers, &c. who refuse to attend on summons of Collector, &c.*

8. *Proceedings to be in writing, when; and appeal to be, when.*

An Act for the establishment and maintenance of Boundary-marks in the Presidency of Fort St. George.

Preamble.

Whereas it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from the public revenue in the Presidency of Fort St. George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, It is enacted as follows:—

Collectors, &c. to fix boundaries of fields, &c and to require owners or occupants to form and maintain boundary-marks.

I. It shall be lawful within the said Presidency for a Collector of Land Revenue, or person exercising the powers of Collector, or any Revenue Officer appointed by the Government for the purpose, to fix the boundaries of fields, holdings, estates, or villages, and to require

that marks be formed and maintained by the owners or occupants on the boundaries, of such materials, and in such number and manner, as may appear to such Officer sufficient for distinguishing the limits of such fields, holdings, estates, or villages, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes.

Notices for the purpose when and how to be served.

II. Notices shall be served on the persons owning or occupying the conterminous fields, holdings, estates, or villages, requiring them to form or repair such boundary-marks within ten days from the date of the notice; and in the event of these persons not being found in their village, the said requisition shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

In default of compliance, officer may order erection or repair of necessary marks at the expense of the owners or occupants.

III. In default of the owners or occupants of the fields, holdings, estates, or villages complying with such requisition, the said officer may give directions for the erection and repair of such boundary-marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages, and shall be levied in the same manner as arrears of land revenue.

In the case of unoccupied fields, cost to be charged to Government.

IV. In the case of unoccupied fields, the cost shall be charged to Government.

Penalty for erasing, &c. marks—a moiety of which to be awarded to informer.

V. Any person convicted before a Magistrate of wilfully, and without lawful excuse, erasing, removing, or injuring such boundary-marks, or any survey-marks set up by an Officer of Government, shall be liable to a fine not exceeding Fifty Rupees for each mark so erased, removed, or injured, one half of which fine may be awarded to the informer, and the other half shall be chargeable with the cost of restoring the mark. Whenever it may not be possible to detect the person who erased, removed, or injured such boundary or survey-marks, the Collector or other Revenue

Costs how to be recovered when offender is not known or unable to pay the fine.

Officer aforesaid may give directions for the restoration or repair of such marks, and may order the costs thereof to be charged to the owners or occupants of the adjacent lands, or apportioned among the ryots of the village in proportion to their pottahs, as he may consider just and equitable, and to be levied in the same manner as arrears of land revenue.

Party objecting may complain to Collector, &c.

VI. Any person objecting to a boundary proposed to be fixed under Section I. may prefer a complaint to the Collector or other Revenue Officer, who shall dispose of the same in the manner prescribed by Regulation XII. of 1816.

Penalty for refusing or neglecting to attend when summoned.

VII. Any occupant or owner of land refusing or failing to attend when summoned by the Collector or other Revenue Officer, at the measurement and demarcation of his field, holding, or estate, or of the village boundary, shall be liable, by order of the Collector or other such Officer, to a fine not exceeding Fifty Rupees, to be levied by the same process as an arrear of land revenue.

Proceedings under Sections III., V. and VII. to be recorded in writing, and appealable to the superior Revenue authorities.

VIII. The proceedings of Officers imposing charges under Sections III. and V., or fines under Section VII. of this Act, shall be recorded in writing, and shall be subject to appeal to the Revenue authorities to whom they are subordinate.

MADRAS.—MINORS.

ACT No. XXI. OF 1855.

[*Passed on the 9th August*, 1855.

Recites insufficiency of laws to insure the proper education of minors under Court of Wards.

1, 2, 3. *Gives the education of male minors to Collector subject to Court of Wards; who* (2) *may direct, where, and with whom such minor shall reside for education; and* (3) *may put minor under a private tutor.*

4. *Expence of education to be paid out of profits of estate.*

5, 6. *Court of Wards may remove guardian with whom Collector is dissatisfied; but* (6) *after removal to continue liable for receipts, &c. during his guardianship.*

7. Confers the right of custody of the minor on the person appointed by Court of Wards.

8. If younger brothers are entitled to maintenance, the provisions of this Act to apply to them.

9. Persons abetting marriage of minor without consent of Collector, to be liable to fine.

10. Orders of Collector appealable to Court of Wards.

An Act for making better provision for the education of Male Minors and the marriage of Male and Female Minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.

Preamble.

Whereas the existing laws are found insufficient to insure the proper education of Male Minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons and their younger brothers, and for the exercise of a control over the marriages of all Minors under the superintendence of the Court of Wards; It is enacted as follows:—

General control and superintendence of the education of Male Minor Wards vested in Collectors of Revenue.

I. The general superintendence and control of the education of every Male Minor, whose property has been, or shall be brought, under the management of the Court of Wards, in, and for any part of the Presidency of Fort St. George, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the Zillah or District wherein such Minor's estate is situate; or, if such Minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors to have power to cause Male Minor Wards to be educated at any School or College.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any Minor is vested by this Act, to direct that such Minor shall reside, either with or without his guardian, at the Sudder Station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such School or College as to the said Collector may seem expedient; and to make such provision as may be necessary, for the proper

care and suitable maintenance of the said Minor whilst attending such School or College.

Or in certain cases to cause such Wards to be educated by a private tutor

III. If it shall appear to the Collector inexpedient to place any such Minor at a school or College, he shall cause such Minor to be educated by a private tutor, properly qualified either at the family residence of such Minor, or at the Sudder Station, or elsewhere within the said Presidency, and in that case also the Collector shall have power to determine from time to time the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act to be paid out of the profits of the Ward's estate

IV. All charges and expenses which may be incurred on account of any Male Minor Ward under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the Minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards.

Continued liability of guardian removed powers and responsibilities of new guardian.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship, and every guardian, appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights

and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of Minors by a Collector of Revenue acting under the Court of Wards.

The right to the custody of the person of a Male Minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

VII. The right to the custody of the person of any Male Minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such Minor, or, in the absence of any such person, the Collector of Revenue having the superintendence of the education of such Minor under the provisions of this Act.

The foregoing Sections applicable also to the younger brothers of Wards.

VIII. Whenever a Minor, whose property is under the management of the Court of Wards, has a younger brother or brothers entitled to maintenance at the charge of the estate, all the powers and provisions hereinbefore contained for promoting the education of such Minor are hereby declared and made applicable to such younger brother or brothers.

Penalty for abetting marriage of Ward without leave of Collector.

IX. Whoever knowingly aids or abets the marriage of any Minor, whose property is under the superintendence of the Court of Wards, or the marriage of a younger brother or sister of such Minor, without the leave of the Collector of Revenue acting under the Court of Wards to such marriage first had and obtained, shall, on conviction before a Court of Session, upon the prosecution of such Collector, be liable to a fine not exceeding two thousand Rupees, or to imprisonment not exceeding the term of six months, with or without hard labour.

Appeal from the orders of a Collector to lie to a Court of Wards.

X. All orders and proceedings of a Collector under the provisions of this Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Wards.

Effect limited by IV 1861 VIII 1861 XV 1861 PORTS AND PORT-DUES. Repealed by XXV 1866

ACT No. XXII. OF 1855.

[*Passed on the 13th August*, 1855.

1. *Repeals Act* 1, 1852, *s.* 21, *and Schedule C.*

2. *Abrogates Bengal R.* 7, 1801; *Bombay R* 2, 1810; *Bengal R* 3, 1833, *s.* 12; *Acts* 13, 1839; 1, 1852, *s s.* 39; 13, 1852, *s s.* 42, 43; *and Act* 11, 1853, *as to removal of obstructions, &c.*

3, 4, 5. *Local Government may declare any Port or river to be under this Act; and* (4) *such declaration shall define the limits of Ports &c.; and* (5) *may alter limits.*

6, 7. *Local Government may appoint Conservator of Port; and* (7) *make rules for purposes specified.*

8. *Declarations and orders of Local Government to be published in Government Gazette.*

9. *Establishes penalty for disobedience of orders.*

10. *Conservator to give directions for enforcement of rules.*

11. *Establishes penalty for non-obedience, &c. to directions.*

12. *Special rule to prohibit the movement of vessels in port without having Pilot, &c. on board.*

13. *Master to permit warps to be fastened to his vessel.*

14. *Establishes penalty for leaving warp or hawser after sunset, so as to be dangerous.*

15. *Conservator may in case of urgent necessity cut warps, &c.*

16. *Establishes penalty for causing obstruction to the navigation.*

17, 18. *Empowers Conservator to remove timbers, &c. impeding the navigation; and* (18) *the owner of the timber, &c. to pay expences of removal, or same may be sold, &c.*

19. *Lawful obstructions to be reported to Government, for removal with compensation.*

20. *Establishes penalty for lifting, injuring or loosening buoys, &c.*

21. *Prohibits masters lifting buoys, &c. of which they have got foul without orders of Conservator.*

22. *Establishes penalty for removing vessel from moorings.*

23. *Vessels wrecked, stranded, &c. so as to cause obstruction, may be removed or destroyed, &c.*

24. *Establishes penalty for throwing ballast or rubbish into port, &c.*

25, 26, 27. *Establishes penalty for graving, breaming or smoking vessel contrary to orders, &c.; and* (26) *for boiling or heating pitch, &c. on board vessel; and* (27) *for drawing spirits by candle-light, &c.*

28. *Requires vessels exceeding* 200 *tons to be provided with forcing pump, &c. for extinguishing fire.*

29, 30, 31, 32. *Within certain limits vessels not to have more than* 50 *lbs.*

of gunpowder on board, &c.; and (30) *Government may prescribe times for landing and depositing combustibles; and* (31) *master to sign declaration of quantity of combustible on board; and* (32) *receipt to be given for gunpowder deposited.*

33. *Bad weather an excuse from landing gunpowder only while it lasts.*

34. *Government may fix times and places for shipping gunpowder, &c.*

35. *Establishes penalty for having gunpowder on board contrary to Act.*

36. *Prohibits the discharge of fire arms except for signal, &c.*

37. *Prohibits persons without authority from sweeping, &c. for anchors, &c.*

38. *Entitles officers to salvage on anchors, wrecks, &c.*

39. *Property unclaimed or whose owner refuses to pay charges, may be sold.*

40. *Prohibits the removal of rock, stones, &c. from bank, &c. of river, and the sinking of posts, &c.*

41, 42, 43. *Abolishes existing tolls at end of one year; and* (42) *empowers local Government to vary rates of tolls; and* (43) *to remit existing rates before new ones come into operation.*

44. *Directs what accounts shall be kept.*

45. *Port-dues to be paid to Collector, who shall grant receipt.*

46. *Master of vessel to report arrival within* 24 *hours.*

47, 48. *Authorizes Conservator to ascertain draught of vessel; and* (48) *to require production of register to ascertain tonnage, and may measure certain vessels.*

49. *Port-dues if not paid may be levied by distress on tackle, &c.*

50. *Port clearance not to be granted till dues are paid.*

51. *Authorizes Conservator to board vessel.*

52. *Establishes penalty for obstructing officer.*

53. *Authorizes Harbour Master, &c. to carry out this Act.*

54. *Establishes penalty for hoisting colors contrary to Statute,*

55, 56, 57, 58, 59. *Magistrate may proceed summarily for offences against this Act; and* (56) *to award costs against offender; and* (57) *his jurisdiction to extend to damages up to Rs.* 1,000; *and* (58) *costs of distress and sale may be recovered;* (59) *the amount of costs to be determined by magistrate.*

60. *Act not to apply to vessels of H. M. or E. I. Co.*

61. *E. I. Co. not to be answerable for acts of its officers.*

62, 65. *Interpretation clauses.*

63. *Gives Magistrates of adjoining jurisdictions, jurisdiction under this Act.*

64. *Convictions not to be quashed for want of form, &c.*

65. *Ante.*

An Act for the Regulation of Ports and Port-dues.

Preamble.

Whereas it is expedient to provide for the safety of Vessels, and for the convenience of traffic in the several Ports within the Territories in the possession and under the Government of the East India Company, and in navigable Rivers and Channels leading to such

Ports, and for the improvement, maintenance, and good government of such Ports, Rivers, and Channels; also to regulate the levy of Port-dues, or charges in such Ports, Rivers, and Channels, in order to defray the cost of such improvement, maintenance, and good government; and to punish the unlawful use of certain flags and colors in such Ports, Rivers, and Channels; and whereas it is expedient to abolish the Anchorage dues heretofore levied in the Presidency of Bombay: It is enacted as follows:—

Repeal of part of Act I. of 1852.

I. Section XXI. of Act I. of 1852 and Schedule C. appended to that Act are hereby repealed.

Operation of certain laws to cease in Ports, &c. declared subject to this Act.

II. Regulation VII. 1801 of the Bengal Code; so much of Regulation II. of 1810 of the Bombay Code as is still in force; Section XII. Regulation III. 1833 of the Bengal Code; Act XIII. of 1839; Section XXXIX. of Act I. of 1852; Sections XLII. and XLIII. of Act XIII. of 1852; and Act XI. of 1853, so far as it relates to the removal of any obstruction, impediment, or public nuisance affecting, or likely to affect, the navigation of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River, or Channel shall be declared to be subject to this Act.

To what places this Act applies.

III. The Local Government of any part of the said Territories may, with the sanction of the Governor General of India in Council, declare any Port within that part of the said Territories to be subject to this Act; and any navigable River or Channel leading to that Port to be subject to this Act. When any such Port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made specially applicable to certain Ports by order of the Local Government, shall have effect in that Port or navigable River or Channel.

Limits of such places how to be fixed.

IV. Every declaration, by which any Port, navigable River, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel; and such limits shall extend always

up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

Limits how to be altered.

V. The Local Government may from time to time, with the sanction of the Governor General of India, in Council, alter the limits of such Port, River, or Channel

Appointment of Conservator.

VI. The Local Government shall appoint an Officer to be Conservator of every Port, River, or Channel subject to this Act. In Ports where there is a Master Attendant, such Master Attendant shall be the Conservator. In Ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In Ports where there are both a Master Attendant and a Harbour Master, the Harbour Master and his Assistants shall be subordinate to, and subject to the control of the Master Attendant and his Assistants. The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

Local Government empowered to make Port rules.

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely,

Entering or leaving Port.

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any Port subject to this Act.

Berths of vessels.

2. For regulating the berths and stations to be occupied by vessels in any such port.

Striking yards, &c.

3. For striking the yards and top-masts, and for rigging in the jib and driver-booms, of vessels in any such Port, whenever it may be proper so to do.

Removal of anchors, &c.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such Port.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

Taking in or discharging ballast.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same; and for marking out the spaces so to be kept free.

Keeping free passage.

7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.

Regulating the anchoring.

8. For regulating the moving and warping of all vessels within any such Port, and the use of warps therein.

Moving and warping.

9. For regulating the use of the mooring buoys, chain and other moorings in any such Port, River, or Channel.

Use of mooring buoys.

10. For fixing, from time to time, the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.

Rates for use of mooring buoys.

11. For regulating cargo and other boats, and catamarans plying for hire in any such Port. Provided that nothing in this Act shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.

Cargo Boats, &c.

12. For regulating the use of fires and lights within any such Port.

Fires and lights.

13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

Signal light.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government or where there is no Official Gazette, in such other public manner as that Government may order; and a copy thereof shall be fixed up in some con-

Publication of Orders of a Local Government.

spicuous place in the Office of the Conservator of every Port to which such order shall relate and in the Custom House, if any, of every such Port.

Penalty for disobedience to rules.

IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Conservator empowered to give directions for certain specified purposes.

X. The Conservator of any Port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such Port.

Penalties for disobedience to orders of Conservator

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator after notice thereof shall have been given to him, such person shall, for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further sum not exceeding One Hundred Rupees for every day on which he shall wilfully continue to disobey such direction; and in case of such refusal or neglect, it shall be lawful for the said Conservator to do, or to cause to be done all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses, which shall be incurred in doing such acts, shall be paid and borne by the person or persons so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof or which shall be affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.

Expenses caused thereby to be paid by the person offending.

Service of written notice.

Special Rule.
Vessels in certain cases not to be moved without having a pilot, &c. or the permission of the Harbour Master.

XII. In every Port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assis-

tant of the Master Attendant or Harbour Master on board; or to move a vessel of any burthen less than 200 tons and exceeding 100 tons, without having on board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some Officer empowered by such Conservator to give such authority; and if any vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper Officer, be unable to procure a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

Exception.

Penalty.

XIII. The Master of any vessel in any Port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel, for the purpose of warping any other vessel in the Port, and shall not allow any such warp to be let go, until required so to do; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

Master to permit warps to be made fast to his vessel.

Penalty.

XIV. If the Master of any vessel shall cause or suffer any warp or hawser, attached to his vessel, to be left out in any such Port after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said Port, he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Penalty for leaving out hawser, &c. after sun set.

XV. The Conservator of any such Port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or hawser, which shall endanger the safety of any vessel in such Port, or at or near to the entrance thereof.

Conservator may, in case of necessity, cut ropes, &c.

XVI. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, or shall cause any public nuisance

Penalties for causing obstruction or public nuisance.

affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding One Hundred Rupees, and also to pay all reasonable expenses which shall be incurred abating or removing such nuisance, obstruction, or impediment; and the Conservator, or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed.

Any floating timber, &c. or any obstruction on shore within the limits of the Port, to be removed at the expense of owner.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such Port, which shall impede the free navigation of such Port; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such Port, and is not private property; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Expenses of removal may be recovered as a penalty.

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and

Timber, &c. may be sold.

the Conservator may cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public Auction, and may retain all the expenses of such removal and sale out of the proceeds of

Proceeds how to be dealt with.

such sale; and shall pay the surplus of such proceeds, or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if neces-

sary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

Obstructions lawfully made how to be removed.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel, subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Conservator shall report the same for the information of the Local Government, and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate relating to the determination of like disputes in the case of land required for public purposes.

Compensation how to be determined.

Penalty for injuring buoys, &c.

XX. If any person shall wilfully and without lawful excuse lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by or by the authority of the Local Government in any Port, River, or Channel subject to this Act, he shall for every such offence be liable, in adition to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Notice to be given to Conservator, if vessel gets foul of Government moorings

XXI. If any vessel shall hook or get foul of any of the buoys or mooring laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same, without the assistance of the Conservator, and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel; and the Master of such vessel shall,

upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such Port, River, or Channel, without leave or authority from the owner or Master of such vessel, such person shall, for every such offence, forfeit a sum not exceeding Two Hundred Rupees, or, at the discretion of the Magistrate, be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Penalty for wilfully loosening a vessel from its moorings.

XXIII. If any vessel shall be wrecked, stranded, or sunk, in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof, the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be repaid within one month after the completion thereof, may recover the same on behalf of the Local Government in the manner provided by Section XXXIX. of this Act.

Conservator may raise any wreck, &c. impeding navigation within the Port.

Expense how recoverable.

XXIV. If any ballast or rubbish, or if any other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River, or Channel, or into or upon any place or shore, from which the same shall be liable to be washed into any such Port, River or Channel, either by ordinary or high tides, or by storms or land-floods, the person who shall so cast or throw the same, or cause the same to be so cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast or other thing shall be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or

Penalty for improperly discharging ballast, &c.

Proviso.

within any limits within which such act may be authorized by Government.

Penalty for graving, &c vessel within prohibited limits.

XXV. If any person shall grave, bream, or smoke any vessel in any such Port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five Hundred Rupees for every such offence.

Penalty for boiling pitch, &c on board a vessel within prohibited limits

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such Port, at any place where such act shall be prohibited by order of the Local Government or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board which such offence shall be committed, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for drawing spirits by candle-light, &c.

XXVII. If any person shall, by candle-light, or other artificial light, draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Special Rule.
Vessels above 200 tons to be provided with a force pump, &c.

XXVIII. In every such Port to which the provisions of this Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances, for the purpose of extinguishing any fire that may occur on board; and the Master of every such vessel who, after having been required by the Conservator to comply with such provision, shall, without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Penalty.

XXIX. The Local Government may, by order, fix the limits

Vessels not to have powder, &c. exceeding 50 lbs. on board within certain limits to be fixed by Government.

within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder, rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight, whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an Officer to receive the same.

Government to appoint place of deposit for powder.

XXX. The Local Government may, in such case, by order, fix the times at or within which, and the manner in which such gunpowder, rockets, or combustible ammunition shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

Government to fix the time and manner of landing and shipping powder, &c.

XXXI. The Master of such vessel shall upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel, any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds; and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

Master to make declaration.

Penalty.

XXXII. The Officer with whom such gunpowder or other combustible ammunition shall be deposited, shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

Officer to give receipt and to account for powder deposited.

XXXIII. If any vessel shall be prevented by stress of weather from landing or depositing such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the Master or owner of such vessel shall, so soon

If by stress of weather powder is not landed, notice must be given thereof.

as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other Officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

Time, &c. for vessels outward-bound to take in powder may be fixed by Government.

XXXIV. The Local Government may also, in respect to such Port, by order, fix the times and places at which, and the manner in which vessels outward-bound, requiring to take in any gunpowder, rockets, or other combustible ammunition exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder, rockets, or other combustible ammunition, shall have been previously landed from such vessels or not.

Penalties for having prohibited powder, &c. on board.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence; and all gunpowder, rockets, or other combustible ammunition which shall be on board any vessel, contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other Officer authorized in that behalf by any general or special order of the Local Government, within the limits of their respective jurisdictions. Nothing in this Act contained shall extend to any gunpowder, rockets or other ammunition belonging to Government, or carried for the use of troops of Her Majesty or of the Honorable East India Company on board of any such vessel.

Exception.

Guns not to be discharged in Port.

XXXVI. If any person shall, without lawful excuse, discharge any gun, musket, or other fire-arm in any Port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Exception.

Penalty.

XXXVII. In every Port, River, or Channel, subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending against this provision shall be liable to a penalty not exceeding One Hundred Rupees.

Special Rule. Unauthorized person not to search for lost anchors or stores.

Penalty.

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any Officer employed by the Local Government for that purpose, from the bed of any Port, River, or Channel subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery. A registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct; and such registry shall be open to public inspection at reasonable office hours, except on Sundays and such holidays as the Local Government may direct; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered.

Salvage payable for wreck, &c.

Register to be kept.

XXXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII. of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith; and if not of a perishable nature, may be sold at any period, not less than six months after the recovery thereof, by public Auction; and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under Section XXIII. as aforesaid, shall be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or if no such person shall appear and claim the same, shall be held in deposit for payment, without interest, to any person who may thereafter establish his right to the same.

Property recovered may in certain cases be sold.

Proceeds how to be applied.

Special Rule.
Removing stones, &c., or injuring shores of Port, prohibited.

XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the Bank or Shore of such Port, River, or Channel; and no person shall sink or bury in any part of such Bank or Shore, whether the same be public or private property, any mooring-post, anchor, or any other thing which is likely to injure, or to be used so as to injure such Bank or Shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such Bank or Shore.

Penalty.

Levy of Port-dues.

XLI. The dues and fees now usually collected at the several Ports within the said Territories may, during the period of one year from the time of the passing of this Act, be collected at such Ports respectively. No Port-dues or fees shall hereafter be levied in any such Port, except under the authority of this Act or of an Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-duties under Regulation VI. of 1831 of the Bombay Code and Act XIII. of 1854, or of fines or duties payable under Act XXVII. of 1850.

Local Government may vary the port-dues.

XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel, in such manner as, having regard to the receipts and charges on account of that port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorised to be taken by this or any subsequent Act.

Proviso.

XLIII. The Local Government may also, during the period of

Local Government may also remit or reduce Port-dues on any vessels during the period of one year after the passing of this Act.

one year after the passing of this Act, remit altogether or reduce the rate of dues and fees now usually collected on any particular descriptionof vessels.

XLIV. For every Port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called the Account of the Port Fund of the Port to which it relates, shall be kept by such Officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the Port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the Port shall be shown. If, for any of the purposes of this Act, an advance of money shall have been or shall be made by Government on account of any Port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the Port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the Port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such Port, shall be charged in the Port Fund Account of that Port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such Port, shall be credited in the Port Fund Account of that Port.

Distinct accounts of Port-dues to be kept, and an abstract thereof to be published.

XLV. The Collector of Customs at every such Port, or such other Officer as the Local Government shall appoint, shall collect the Port-dues abovementioned. The Officer to whom any such Port-dues shall be paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the Port or place at which the same shall be paid, and the name, tonnage, and other proper des-

Collection of Port-dues.

Voucher to be given.

cription of the vessel in respect of which such payment shall have been made.

Master to report the arrival of vessel to Harbour Master.

XLVI. Within twenty-four hours after the arrival, within the limits of any such Port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such Port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

Conservator may in certain cases ascertain the draught, and charge the expense thereof to the Master.

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act shall be in any such Port, without proper marks on the stem and stern posts thereof for denoting the draught of such vessel, the Conservator may, in any case in which it shall be necessary to ascertain the draught of such vessel, cause the same to be ascertained by means of the operation of hooking, and the Master of such vessels shall be liable to pay the expenses of such operation.

Tonnage of vessel liable to Port-dues how to be ascertained.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following Rules shall be observed :—

If Registered.

Clause 1.—If such vessel be a British registered vessel, or a vessel registered under Act X. of 1841, or Act XI. of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection; and if any such Master or other person shall, without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master, or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to

be ascertained, and in such case, the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

Clause 2. If such vessel be not a British registered vessel, or a vessel registered under Act X. of 1841, or Act XI. of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels the Conservator shall cause such vessel to be measured, and the tonnage thereof, according to the mode aforesaid to be ascertained; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

If not registered.

XLIX. If the Master of any vessel, in respect of which any Port-dues, fees, or charges shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same, or any part thereof, on demand, the Collector of Customs, or other person authorized to collect such Port-dues or charges, may distrain or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid; and in case any part of the said Port-dues or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the Master of such vessel, upon demand.

On refusal to pay Port-dues, &c. the Collector may distrain and sell.

Amended by XIX of 1860

L. The Officer of Government, whose duty it shall be to grant a Port clearance for any vessel, shall not grant such Port clearance, until the owner, agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the owner or Master of such

No Port clearance to be granted until dues, &c. are paid.

vessel in respect thereof shall be liable under this or any subsequent Act.

Conservator, &c. may go on board any vessel in discharge of his duty.

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act; and the Collector of Customs or other Officer appointed to collect any Port-dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so to do, for the performance of any duty imposed upon such Collector or other Officer under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any such Conservator, or any of his Assistants, or any such Collector of Customs, or other Officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Penalty for preventing entry.

Penalty for obstructing Officer in discharge of his duty, &c.

LII. If any person shall wilfully obstruct or hinder any Officer in the execution of any duty imposed, or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

Powers of Assistant Conservator, of Harbour Master, and of Assistant Harbour Master.

LIII. All acts, orders, or directions by this Act authorized to be done or given by any Conservator, may, subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act may call to his aid such assistance as may be necessary.

Penalty for hoisting unlawful colors in Port.

LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, within the limits of

any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17 and 18 Victoria Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees; and such penalty shall be in addition to any other penalty which may be recoverable under the said Statute, or any future Statute to be made in that behalf; and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

Offence how punishable, and penalties how to be recovered.

LV. All offences against this Act shall be punishable in a summary manner by a Magistrate. And in addition to the means prescribed by Act II. of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the owner or Master of any vessel for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as shall be necessary.

Costs of conviction.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction, in addition to any penalty or expenses to which he may be liable. Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

Damages, &c. payable under this Act, how to be ascertained and recovered.

LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any

penalty under this Act, and if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Costs of Distress.

LVIII. In any case in which any penalty, damages or expenses shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

Magistrate to determine the amount to be levied in case of dispute.

LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate, who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

Act not to extend to vessels of war, nor to affect any private right of property, nor any Customs law or regulation.

LX. Nothing in this Act shall extend to any vessel belonging to, or in the service of Her Majesty, or of the East India Company, or to any vessel of war belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

Indemnity to East India Company against default of Harbour Master, Pilot, &c.

LXI. The East India Company shall not be answerable for any act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act; or of any Pilot; or of any Deputy, or Assistant of any of the Officers above-mentioned; or of any person acting under the authority or directions of any such Officer or Assistant; done whithin the limits of such Port, River, or Channel; nor

for any damage or injury sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used by such vessel. Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

Proviso.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Interpretation of word "Magistrate" in this Act.

LXIII. Whereas divers Ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act; it is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act, in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed: and that such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Jurisdiction over offences beyond the local limits of jurisdiction.

LXIV. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face

Conviction to be quashed on merits only. Form of conviction, &c

of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari;* and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Construction of Act.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons for the time being immediately administering the Executive Government of that portion of the Territories under the Government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include any thing made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel, shall mean and include any person having for the time being the charge, or command, or control of such vessel.

ADMINISTRATION OF MORTGAGED ESTATES.

ACT No. XXIII. OF 1855.

[*Passed on the* 13*th August*, 1855.

Heir or devisee of lands under mortgage not entitled to have the mortgage discharged out of personal estate.

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

Preamble.

Whereas it is expedient that the Law, under which the real and personal assets of deceased persons subject to the English Law are administered, should be amended; It is enacted as follows:—

Mortgage debts on property descending or devised, how to be discharged.

I. After this Act shall have come into operation, if any person shall die seised of, or entitled to any estate or interest in any land or other hereditaments within the Territories in the

possession of, and under the Government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof: Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise; Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased.

Proviso as to claims made prior to this Act.

PENAL SERVITUDE.

ACT No. XXIV. OF 1855.

[*Passed on the* 13*th August*, 1855.

1. *Abolishes sentence of transportation on Europeans and Americans.*

2, 3. *Substitutes for transportation, terms of penal servitude;* (3) *reserves discretion of Court to apply other legal punishments.*

4. *Legalizes commutation of penal servitude for death after sentence.*

5. *Empowers Government to exchange penal servitude for transportation in case of persons under sentence.*

6. *Empowers the G. G. in C. to appoint by formal order, place of penal servitude, &c.*

7. *Extends so far as applicable to penal servitude, Act relating to transportation.*

8. *Authorizes the removal of prisoners to other prisons.*

9, 10. *Authorizes G. G. in C. to give license to prisoners under servitude; and* (10) *such license to be an exemption from sentence.*

11. *Directs what proceedings may be taken for apprehension of convict in case of revocation of his license;*

12. *Convict violating the condition of his license to be liable to his original term of servitude over again.*

13. *Reserves the effect of* 12 *and* 13 *V.* c. 43, *&c.*

14. *Sentence on European or American to be conclusive of his origin.*

15, 16. *Construction of Act;* (16) *Act when to take effect.*

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.

Preamble

Whereas, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of Transportation, and to amend the Law relating to the removal of European and American Convicts for the purpose of imprisonment; It is enacted as follows:—

No European or American to be sentenced to transportation.

I. After the commencement of this Act, no European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the Government of the East India Company, to be transported.

Terms of penal servitude instead of the present terms of transportation.

II. Any person who, but for the passing of this Act, would, by any Law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European, or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years

and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

Discretion of Courts as to alternative punishments not to be affected.

III. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Effect of pardon granted upon condition of penal servitude.

IV. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

The Executive Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude.

V. It shall be lawful for the Governor General of India in Council, or for the person or persons for the time being administering the Executive Government of any Presidency or place in which a European or American has been lawfully sentenced by any Court to be trans-

ported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section after the expiration of the term of transportation to which he was sentenced.

Term of penal servitude in such case.

VI. Every person who, under this Act, shall be sentenced or ordered to be kept in penal servitude, may during the term of the sentence, or order, be confined in any such prison or place of confinement within any part of the said territories as the Governor General of India in Council shall, by any General Order, from time to time direct; and may, during such time, be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided that the time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Person under sentence of penal servitude where to be sent and how to be dealt with.

Intermediate imprisonment.

Proviso.

VII. All Acts and Regulations now in force within any part of the said territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to extend and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

All Acts, &c. respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.

VIII. The person or persons for the time being administering the Executive Government of the Presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment, for a

Removal of European or American convicts under sentence of imprisonment from one prison to another.

term exceeding one year, whether with or without hard labour, may, with the consent of the Governor General of India in Council, order the removal of such prisoner from the prison or place in which he is confied to any other public prison or place of confinement within any part of the said territories; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the Jail to which the prisoner is removed.

Governor General in Council may grant a license to be at large to any convict under sentence of penal servitude.

IX. It shall be lawful for the Governor General of India in Council to grant to any convict who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions, in all respects as to the Governor General of India in Council shall seem fit; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

Holder of such license not to be imprisoned, &c.

X. So long as such license shall continue in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

If license revoked, the convict may be apprehended and committed to prison.

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India, by order in writing, to signify to any Justice of the Peace or Magistrate that such license has been revoked, and to require such Justice or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of the said territories, and shall have the same force and effect in any place within such Territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently

may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the zillah or district in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal, for the re-commitment of such convict to the prison or place of confinement from which he was released by virtue of the said license, and such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

Penalty for breach of condition of the license.

XII. If a license be granted under Section IX. of this Act upon any condition specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or, knowing of the revocation of such license, shall neglect forthwith to surrender himself, or shall conceal himself, or endeavour to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

Act not to affect the provisions of certain English Statutes.

XIII. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

What to be deemed proof that a person is a European or an American.

XIV. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Construction of Act.

XV. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject.

Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

Commencement of Act.

XVI. This Act shall commence from and after the first day of November 1855.

OOTACAMUND.—JURISDICTION.

ACT No. XXV. OF 1855.

[*Passed on the 29th September,* 1855.

1. *Empowers Madras Government to establish Criminal Court at Coimbatore, of which Judge of Coimbatore to be Judge.*
2. *P. S. A. to give notice to Judge of commitments by him.*
3. *P. S. A. to have full powers of a Judge.*

An Act to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills.

Preamble.

Whereas it is expedient to provide that persons charged with offences committed on the Neilgherry Hills, for which they are amenable to the jurisdiction of the Session Judge of Coimbatore, shall be tried at Ootacamund; It is enacted as follows:—

Session Judge of Coimbatore empowered to hold Sessions at Ootacamund on the establishment of a subordinate Criminal Court constituted according to Regulation VIII. of 1827 of the Madras Code.

I. When the Governor in Council of Fort St. George shall establish at Ootacamund on the Neilgherry Hills a subordinate Criminal Court constituted according to Regulation VIII. of 1827 of the Code of Fort St. George, it shall be lawful for the Session Judge of Coimbatore to hold Sessions at Ootacamund for the trial of persons commited by that Court for offences subject to his jurisdiction.

Principal Sudder Ameen to give notice of commitment to Session Judge.

II. When the Principal Sudder Ameen of such Court shall commit for trial before the Court of Session for the Zillah of Coimbatore, a prisoner charged with a crime or misdemeanor subject to the jurisdiction of that Court, he shall give immediate notice of the commitment to the Session Judge, and the Session Judge shall, within two months from the date of the commitment, proceed to hold a Court at Ootacamund for the trial of

such prisoner; and if any other prisoners shall have been committed in the meantime, he shall continue the Session of the Court until all such prisoners shall have been tried.

Principal Sudder Ameen vested with certain Criminal powers.

III. It shall be lawful for the Principal Sudder Ameen of the said Court to exercise all the powers of a Criminal Court constituted according to Regulation II. of 1827; and also, by appointment of the Government of Fort St. George, all the powers of a Joint Magistrate.

GOVERNMENT SAVINGS' BANKS.

ACT No. XXVI. OF 1855.

[*Passed on the 19th September*, 1855.

Recites expediency of facilitating payment of small deposits to representatives of deceased depositors.

1. *Secretary to G. S. Bank may pay deposit to such person as he may think entitled, if no probate, &c. has been obtained, giving executor or creditor of deceased right to follow the money.*

2, 3. *Empowers Secretary to take security from person receiving, for due administration; and* (3) *to administer oath, &c. to such person.*

4. *Takes away Administrator General's power to give certificate as to deposits.*

5. *Act not to apply to deposits belonging to European officer or soldier, or sailor in marine service or Indian Navy.*

An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors.

Preamble.

Whereas it is expedient to facilitate the payment of small sums belonging to the estates of deceased depositors in the Savings' Banks established by Government within any part of the territories in the possession and under the Government of the East India Company to the representatives of such depositors: It is enacted as follows:—

Secretary of Government Savings' Bank, in certain cases, to pay without probate, &c. money belonging to the estate of a deceased depositor.

I. If a depositor in any Government Savings' Bank shall die leaving therein a sum of money not exceeding Five Hundred Rupees, and probate of his will or letters of administration of his estate or effects, or a certificate granted

under Act No. XX. of 1841, or under Section IV. of Act No. X. of 1851, shall not be produced to the Secretary of such Bank within the period of two months from the time of the death of the said depositor, it shall be lawful for the Secretary of such Bank to pay the same to any person or persons who shall appear to him to be entitled to receive the same or to administer the effects of the deceased; and such payment shall be a full indemnity and discharge from all further liability in respect of the money so paid; but nothing herein contained shall preclude any executor or administrator or representative of the deceased from recovering from the person or persons receiving the same the amount remaining in his or their hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the money so paid to such person or persons and remaining in his or their hands unadministered, in the same manner and to the same extent as if such person or persons had obtained letters of administration to the estate of the deceased.

Payment to be a discharge.

Saving of right of executor, &c.

And of creditor.

II. The Secretary of any such Bank may take such security as he shall think necessary from any person or persons to whom he shall pay any money under the preceding Section, for the due administration and distribution of the money so paid, and may assign the same to any person or persons interested in the due administration and distribution thereof, which person or persons may sue on the same in his or their own names.

Security for due administration.

III. For the purpose of ascertaining the right of the person or persons claiming to be entitled as aforesaid, it shall be lawful for the Secretary of any such Bank to administer an oath or affirmation; and every person who, having been sworn or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Power to administer oath, &c.

Penalty for false testimony.

IV. From and after the passing of this Act, no Administrator General of a Presidency shall grant a certificate under Section XLIII. of Act No. VIII. of 1855 in respect of any sum of money deposited in a Government Savings' Bank.

Administrator General not to grant certificate in respect of money deposited.

V. Nothing in this Act contained shall apply to the payment of any money deposited in a Government Savings' Bank belonging to the estate of any European Officer or Soldier dying in Her Majesty's Service in India, or of any European Officer or Soldier dying in the Service of the East India Company, or to the estate and effects of any Officer, Seaman, or other person dying in the Marine Service of the said Company called the Indian Navy, or to the estate and effects of any person who, at the time of his death, was a deserter from any of the said Services.

Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.

BANKS OF BENGAL, MADRAS AND BOMBAY.

Repealed by Act 8 of 1862

ACT No. XXVII. OF 1855.

[*Passed on the* 19*th September*, 1855.

Empowers these banks to transact business of a new kind to them, viz. to take charge of Government securities, &c. receive interest, &c. invest proceeds, &c. sell, &c. re-invest, &c.

An Act to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks.

Preamble.

Whereas it is expedient to authorize the several Banks of Bengal, Madras, and Bombay to transact the kinds of business hereinafter mentioned;

It is enacted as follows:—

I. In addition to the kinds of business in which the Bank of Bengal, the Bank of Madras, and the Bank of Bombay may now by law be respectively engaged, it shall be lawful for any of the said Banks to transact all or any of the following kinds of business, either with or without receiving commission or payment for the transaction thereof, that is to say:

Banks of Bengal, Madras, and Bombay empowered to transact certain business in respect of Government Securities and Shares in the said Banks.

First.—To take charge of any Government Securities or Shares in any of the said Banks.

Second.—To receive the interest or dividends on any such Securities or Shares.

Third. To invest any money deposited in any of the said Banks in the purchase of any such Securities or Shares.

Fourth.—To sell or transfer any such Securities or Shares deposited with them, or to receive any principal money that may become payable thereon.

Fifth.—To re-invest the principal, interest, or dividends so received, or the proceeds arising from such sale in Government Securities or Shares in any of the said Banks, or to hold or pay such principal, interest, dividends, or proceeds, or, according to the instruction of their constituents and at their risk, to remit the same by public or private Bills, whether payable in India or not, and to do all acts necessary or proper for the purpose of making such remittances. Provided that, if any such remittance be made by a Note or Bill of any of the said three Banks, the same must be payable in India on demand.

USURY LAWS.

ACT. No. XXVIII. OF 1855.

[*Passed on the* 19*th September*, 1855.

1. *Repeals s.* 3 *of* 13, *G.* 3, *c.* 63; *and all the usury laws in force with Regulations specified in schedules.*

2. *Court to decree agreed rate of interest, and if no agreement what it deems reasonable.*

3. *Court may order interest to be allowed on judgments, &c.*

4. *Agreement to allow the usufruct instead of interest to be valid.*

5. *On mortgage sales, twelve per cent. to be allowed, if interest agreed but amount not fixed,*

6. *Court to allow reasonable interest in taking accounts when rate only is not agreed.*

7, 8. *This Act not to have retrospective effect; and* (8) *to come into operation,* 1*st January* 1856.

An Act for the repeal of the Usury Laws.

Whereas it is expedient to repeal the laws now in force relating

Preamble, to Usury: It is enacted as follows:—

Laws repealed.

I. Section XXX. of the Act of Parliament, passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "An Act for establishing certain Regulations for the better management of the affairs of the East India Company as well in India as in Europe," shall not apply in any part of the territories in the possession and under the Government of the said Company to any bond, contract, or assurance whatsoever, which shall be made or entered into within the said territories after the passing of this Act; and the several parts of Regulations mentioned in the Schedule hereto annexed, and all laws in force in any part of the said territories relating to Usury, are hereby repealed.

What rate of interest shall be decreed by the Court in any suit.

II. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

III. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

Contract for the usufruct of property, in lieu of interest, to be binding.

IV. A mortgage or other contract for the loan of money, by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

V. Whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum.

Proviso.

Provided that, in the latter case, the amount deposited shall be subject to the

decision of the Court as to the rate at which interest shall be calculated.

Rate of interest on future adjustments of accounts.

VI. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

Transactions previous to this Act not to be affected.

VII. Nothing hereinbefore contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done, or contract entered into, previously to the passing of this Act.

Commencement of Act.

VIII. This Act shall commence and take effect from the 1st day of January 1856.

SCHEDULE.

Sections IV. VI. VII. VIII. IX. X. and XI. Regulation XV. 1793 of the Bengal Code.

Sections III. V. VI. VII. VIII. IX. and X. Regulation XXXIV. 1803. of the same Code.

Clause 1 Section XXIII. Regulation VIII. 1805 of the same Code, so far as it extends the above-mentioned Sections of Regulation XXXIV. 1803 to the Zillahs therein referred to.

Clauses 3, 4, 5, and 6, Section IX. Regulation XIV. 1805 of the same Code; and so much of Section XI. of the same Regulation as may be deemed to have extended to the Zillah of Cuttack any of the Clauses or Sections above-mentioned or any law relating to Usury.

Section II. Regulation XVII. 1806 of the same Code, so far as it extends to the Province of Benares, subject to modifications, the above-mentioned Sections of Regulation XV. 1793; and Sections IV. and VI. of the same Regulation.

Sections II. IV. V. and VI. Reglulation XXXIV. 1802 of the Madras Code, and Section VIII. of the same Regulation, so far

as it may be deemed to limit the rate of interest to be allowed on mortgaged bonds.

Section XXII. Regulation IV. 1816 of the same Code.

Section XIV. Regulation V. 1816 of the same Code.

Section XV. Regulation VI. 1816 of the same Code.

Section XIII. Regulation VII. 1816 of the same Code.

So much of Section VII. Regulation II. 1825 of the same Code as limits the rate of interest to be allowed by the Courts on bonds or other instruments which shall be entered into after the passing of this Act.

Sections X. XI. and XII. Regulation V. 1827 of the Bombay Code.

MADRAS.—CUSTOMS.

ACT No. XXIX. OF 1855.

[*Passed on the 23rd October*, 1855.

1, 2. *Empowers Board of Rev. to revise proceedings of all customs officers; and* (2) *transfers to Board of Rev. certain powers of G. in C.; but* (3) *gives an appeal in certain cases to B. of Rev.*

An Act for amending Act No. VI. of 1844.

Preamble.

Whereas it is prescribed, by Regulation II. of 1803 of the Madras Code, that the Collectors of the public revenue, derived from duties on commodities by Sea or Land, as well as from other sources shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board; and it is expedient to amend Act No. VI. of 1844, in so far as it may be construed to exempt any orders or proceedings of officers employed in the collection of Customs from the revision and control of the said Board of Revenue, and in so far as it makes the proceedings of Collectors of Customs depend upon the orders of Government in certain cases: It is enacted as follows:—

Board of Revenue empowered to revise proceedings of officers employed in the collection of Sea Customs and Land Frontier Customs.

I. The Board of Revenue is empowered to revise the proceedings of all officers employed in the collection of Sea Customs and Land Frontier Customs, under Act No. VI. of 1844, and to annul or modify the orders of such officers.

II. The Board of Revenue is empowered, instead of the Governor in Council, to pass orders in all cases in which, by the proviso in Section XVII. Act No. VI. of 1844 relating to baggage, and by Sections XXVI. and LXI. of the same Act, the proceedings of the Collectors of Customs are dependent on the orders of Government.

Board, instead of Governor in Council, to pass orders in certain cases.

III. In case of imported goods being charged by a Collector of Customs, under the first rule annexed to Schedule A of Act No. VI. of 1844, with a rate of duty above what they are liable to on the declaration of the importer as to the place of manufacture or production, an appeal shall lie to the Board of Revenue, instead of the Governor in Council.

Appeal in certain cases to lie to Board instead of Governor in Council.

BOMBAY.—BUILDING ACT.

ACT No. XXX. OF 1855.

[*Passed on the 24th October*, 1855.

Repeals Act 28, 1839, *s.* 7.

An Act to repeal Section VII. of Act No. XXVIII. of 1839.

Whereas it is expedient to repeal Section VII. of the said Act, the provisions thereof being unnecessary—

Preamble.

I. It is enacted that Section VII. of Act No. XXVIII. of 1839 be repealed.

Section VII. Act XXVIII. 1839 repealed.

EMIGRATION TO ST. LUCIA AND GRENADA.

ACT No. XXXI. OF 1855.

[*Passed on the* 14*th November*, 1855.

1, 2. *Abrogates Act* 4, 1839, *as respects emigration to St. Lucia and Grenada; and* (2) *authorizes emigration from Cal. Mad. and Bomb. thereto.*

3, 4. *Authorizes the appointment of emigration agents for those colonies; and* (4) *protector of emigrants to act under this Act.*

5, 6. *Ship not to take emigrants without license, &c. and doing so, liable to penalty; and* (6) *no emigrant to be taken on board without a certificate.*

7. *Ship with emigrants not to be cleared without certificate from emigration agent to effect specified.*

8. *Emigrant ships to leave ports only between the* 31*st August and* 1*st March.*

9, 10. *Master of emigrant ship before clearing to deliver list of ages, &c.*

of emigrants to the E. Agent; and (10) *on default of duty under this Act to be liable to penalty.*

11. *Establishes penalty for taking emigrant on board, not in list.*

12. *Establishes penalty for any act in fraud of this Act.*

13. *Gives Customs officers, Pilots and Preventive officers the necessary powers for prevention of illegal emigration.*

14. *Customs officer to countersign emigrant's certificate; to muster emigrants before he leaves the ship; Pilot to do the same; and both to make a report on the emigrants.*

15. *Establishes penalty for forging documents under this Act.*

16. *Penalties under this Act may be enforced by J. P.*

17. *Act to take effect from notification in Gazette. Schedule.*

An Act relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.

Preamble.

Whereas it is expedient to render lawful the emigration of laborers, being Native inhabitants of the Territories in the possession and under the Government of the East India Company, to the British Colonies of Saint Lucia and Grenada, and to provide regulations for ships carrying Native Emigrants from the said Territories to either of the said Colonies: It is enacted as follows:—

Partial repeal of Act XIV. of 1839.

I. Act No. XIV. of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colonies of Saint Lucia and Grenada, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay, respectively, to the said Colonies, is repealed.

Natives may emigrate from Calcutta, Madras, and Bombay to Saint Lucia and Grenada.

II. After the passing of this Act, Native inhabitants of the said Territories shall be allowed to pass and to be conveyed as Emigrant laborers to Saint Lucia and Grenada, respectively, from the Ports of Calcutta, Madras, and Bombay, respectively, but not otherwise.

Appointment and duties of Emigration Agents.

III. At each of the three Ports aforesaid, it shall be lawful for the Government of the Presidency or place within which the Port is situated, to authorize such person or persons as may be nominated by the Governments of Saint Lucia and Grenada, respectively, to act as Emigration Agents at the aforesaid Ports respectively, and to exercise the powers conferred on Emigration Agents by this

Act; and every such Emigration Agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.

Protector of Emigrants.

IV. The Protector of Emigrants at each of the three Ports aforesaid shall act as protector of laborers emigrating under the provisions of this Act from the aforesaid Ports respectively.

Emigrant ships to be licensed

V. It shall not be lawful to convey any Emigrant, being a Native of India, who may embark for the purpose of laboring for hire in either of the said Colonies from any of the Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency or place in which the Port is situated. A fee, not exceeding one Rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license, the Master of every ship conveying, or destined to convey, Emigrants from India, shall execute a Bond, binding himself and his owners in a penal sum of 10,000 Rupees, to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the Government of such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be conveyed, without a license being obtained as aforesaid, shall be liable to be forfeited, and the master thereof shall be liable, as for a misdemeanor, to a fine of 1,000 Rupees for every such Emigrant so illegally conveyed.

Fee for license.

Master of ship to give bond.

Penalty if ship be not licensed.

Master of vessel not to receive on board any Emigrant without a certificate.

VI. It shall not be lawful for the Master of any vessel licensed as abovementioned to receive on board any Emigrant laborer, as above provided, unless such laborer shall have in his

possession and show a certificate or pass, to be given to him by the Emigration Agent of the Port, countersigned by the Protector of Emigrants, stating his name, and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Certificate what to state, &c.

VII. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for either of the said Colonies, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Emigration Agent, so nominated and authorized at such Port as aforesaid, a certificate, under the hand of such Agent, to the effect following, that is to say—

Before Port-clearance, Master of ship to obtain certificate from Emigration Agent stating—

First.—That such Agent has, by personal communication, done what is required on the part of such Agent by the third Article of the Schedule hereunto annexed; provided always, that every such Agent shall make the enquiries specified in such Schedule in an open Court or public office, to which all persons shall have admission.

That the third Article in the Schedule has been complied with.

Proviso. Inquiries therein specified to be public.

Second.—That all the directions contained in the fourth, fifth, sixth, and seventh Articles of the said Schedule, for ensuring the health and safety of passengers, have been duly complied with.

That the directions in the Schedule as to health, &c. have been complied with.

Third.—That (in addition to the directions contained in the said Schedule) such Rules have been complied with as the Governor General in Council shall from time to time frame, touching the medical attendance and medical stores, and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the Emigrants, or other matters.

That the Government Rules touching medical attendance, clothing, &c. have been complied with.

VIII. The probable lengths of the voyages to Saint Lucia

Probable lengths of voyage.

and Grenada, from the Ports aforesaid respectively, shall, for the purposes of this Act, be deemed to be—

From the Port of Calcutta, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks; and that no ship or vessel carrying Emigrant laborers to Saint Lucia or Grenada, shall sail from Calcutta, Madras or Bombay at any other time than between the 31st day of August and the 1st day of March next thereafter ensuing.

Time of Sailing.

IX. Before any ship or vessel shall be cleared out from any of the aforesaid Ports for Saint Lucia or Grenada, it shall be necessary for the Master thereof to deliver to the Emigration Agent, so nominated and authorized at such Port as aforesaid, the list specified in Article 10 of the said Schedule, and to obtain such duplicate thereof as is required by the said Article.

Master to deliver list to Emigration Agent.

X. If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for Saint Lucia or Grenada without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for clearing ship without complying with Rules.

XI. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for Saint Lucia or Grenada, take on board any such Emigrant laborer as aforesaid, without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding five hundred Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XII. If any Master of any ship or vessel cleared for Saint Lucia or Grenada as aforesaid, shall, after having obtained such certificate as aforesaid, fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable, on conviction, to a penalty not exceeding five thousand Rupees, beside incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XIII. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for Saint Lucia or Grenada, and of other offences against this Act; and all Pilots in the Service of the East India Company shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officers and Pilots at Calcutta to countersign papers.

XIV. Whenever a vessel shall clear from Calcutta for Saint Lucia or Grenada with Emigrant laborers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer, and shall keep a register of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until a muster of the crew and passengers and Emigrant laborers has been made in his presence, and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in Section XIII. of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew

To muster crew and passengers and Emigrants

and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete Report of the Emigrant laborers on board of any ship at the time of his quitting the same, and such Report shall contain a declaration that, to the best of the declarant's belief, no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster, if any shall be transmitted without delay to the Emigration Agent of the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of five hundred Rupees, commutable, if not paid, to imprisonment in the Calcutta Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

Report of Emigrants on board.

Penalty.

XV. If any person shall forge, or shall use, knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for forgery of document required by this Act.

XVI. All the several penalties to which the Masters of ships or vessels are liable by this Act, shall be enforced by information laid before any Justice of the Peace at the instance of the Emigration Agent or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Penalties how to be enforced.

XVII. This Act shall take effect as to the said Colonies respectively from the day when the Governor General of India in Council, or in his absence the President in Council, shall notify in the *Calcutta Gazette* that such Regulations have been provided, and such measures taken, as he may deem necessary for the protection of

Act when to take effect.

such Emigrants during their residence in such Colony, and in respect of their return to India.

SCHEDULE.

Appointment of Emigration Agent.

1. The Governors of Saint Lucia and Grenada may, from time to time, nominate such persons as they shall see fit to act as Emigration Agents at Calcutta, Madras, and Bombay.

Remuneration.

2. The remuneration to be given to any such Agent in India shall not depend upon or be regulated by the number of Emigrants sent by him, but shall be in the nature of an annual salary.

Duty.

3. Every such Emigration Agent shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the port or place for which such Agent shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud, false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and such Agent shall explain the real advantages likely to be derived by such Emigrant from a removal to such Colony, at the same time cautioning such Emigrant against unreasonable and unwarrantable expectations; and such Agent shall also ascertain that every such Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease.

Number of passengers.

4. It shall not be lawful to ship on board of any ship or vessel carrying Emigrants from India to either of the Colonies aforesaid, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel; and no such ship or vessel carrying Emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks; and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the least, and such platform shall not be so laid as that the lower beams shall project above the same; and no such ship or vessel shall have more than two tiers of berths; and no such ship or vessel shall carry passengers

on any such voyage to any of the Colonies aforesaid, unless there shall be an interval of six inches at least between the deck or platform and the floor of the lower tier, throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores, not being the personal luggage of such person.

Children.

5. In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

Provisions.

6. There shall be actually laden on board of every ship or vessel conveying Emigrants into either of the Colonies aforesaid, at the time of departure of such ship or vessel from the port at which such laborers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following: that is to say, a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always, that, when any such ship or vessel shall be destined to call at a port or place in the course of her voyage, for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor General of India in Council, any other articles of food were substituted for the articles above enumerated, as being, in his judgment, equivalent thereto.

Survey of ship.

7. Before any such ship or vessel shall be cleared out on any such voyage, the Emigration Agent appointed for the port or place from which such ship

or vessel shall be cleared out shall survey, or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Master to furnish provisions.

8. The Master of every ship or vessel conveying Emigrants to saint Lucia or Grenada shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Copies of Rules.

9. Two copies of these Regulations, and two copies of a translation thereof in the Bengalee language, or such other language as the Government may direct, authenticated by the signature of the Emigration Agent at the port or place at which such Emigrants shall embark, shall be delivered to the Master by such Agent, at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations, shall, upon request made at reasonable times to the Master of the ship or vessel, be produced to any passenger for his perusal.

List of Emigrants.

10. The Master of every ship or vessel carrying Emigrants from India to either of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to such Emigration Agent, at the port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Agent shall thereupon deliver to the said Master the counterpart of such list signed by such Agent; and the said Master shall, on the arrival of such

ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the Protector of Emigrants appointed, or to be appointed, at the Colony at which the said ship or vessel may have arrived.

Rules not applicable to ships of war.

11. Provided always that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's Ships of War.

BENGAL.—EMBANKMENTS.

ACT No. XXXII. OF 1855.

[*Passed on the 30th November*, 1855.

1. *Repeals Bengal R.* 6, 1806 *and B. R* 11, 1829.

2. *Defines what embankments are within the Act.*

3, 4. *Embankments to be under superintendent of embankments; to whom powers are given to take charge, &c. change, &c. and enlarge &c. the embankments.*

5. *Superintendent to give notice to Collector before he removes, changes or enlarges an embankment; who* (*cl.* 2,) *shall make proclamation;* (*cl* 3.) *hear objections, and pass orders if Collector and Superintendent agree; and* (*cl.* 4,) *orders appealable:* (*cl.* 5,) *subject to appeal, orders to be final.*

6. *Proprietors bound to maintain embankments, to pay for their maintenance, when.*

7. *Entitles persons sustaining damage from alterations, to compensation from Collector, and by civil action, and amount in admitted claims to be settled by arbitration; and* (*cl.* 2,) *provides for appointment of arbitrators;* (*cl.* 3,) *when there are several claimants; and* (*cl.* 4,) *for umpire, and* (*cl* 5,) *for case of refusal of arbitrator to act, &c; and* (*cl* 6,) *empowers Collector to enforce attendance of arbitrators; and* (*cl.* 7,) *on default of arbitration may appoint new arbitrators; and* (*cl* 8,) *to conduct the arbitration;* (*cl.* 9.) *and award, and proceedings to be deposited in his office; and* (*cl* 10,) *may defer payment in certain cases; and* (*cl.* 11,) *award to be set aside only on grounds of corruption, &c. and* (*cl* 12,) *gives costs to Government; and* (*cl.* 13,) *fixes a measure of compensation; but* (*cl* 14,) *excepts from these provisions certain cases of compensation.*

8. *Provides for making sluices for landholders in embankments;* (*cl.* 2,) *officer to report on the proposed work; but* (*cl.* 3,) *applicant to pay the expense.*

9. *Sluices to be opened only by public officer, &c.*

10. *Authorizes the making of temporary water-courses, &c. through embankment.*

11. *Provides for specifications &c. of works expense of which belongs to Zemindars, &c. and (cl 2,) provides for accounts being kept.*

12. *Authorizes Sup. to report to Collector houses, &c. the removal of which he deems necessary; and (cl. 2.) Collector to give notice to interested parties; and (cl 3, 4 and 5,) jury to ascertain the value and make award.*

13, 14. *After award Collector to give notice to parties concerned; and* (14) *in their default houses, &c may be removed by Collector.*

15, 16, 17. *Establishes penalty for obstructing the removal of houses, &c. and* (16) *for cutting, &c. embankments; and* (17) *for damaging embankments by other means.*

18. *Gives jurisdiction under the Act to Deputy and Assistant Magistrates.*

19. *Empowers Darogahs to inquire.*

20. *Orders of Magistrate, &c. appealable.*

21. *Interpretation clause.*

An Act relating to Embankments.

Preamble.

Whereas the Regulations now in force, for the maintenance of embankments in the Territories under the Government of the Lieutenant-Governor of Bengal, have been found ineffectual for the intended purposes thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same: It is enacted as follows:—

Regulations repealed.

I. Regulation VI. of 1806 and Regulation XI. of 1829, so far as they relate to the said Territories, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

What is a public embankment within this Act.

II. The word "embankment" in this Act means an embankment for the purpose of excluding or retaining water; and every embankment, which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

Who to have superintendence of public embankments.

III. The superintenence of the public embankments shall be entrusted, subject to the general orders of Government, to an Officer who shall be called the Superintendent of Embankments.

IV. *Clause* 1.—The Superintendent of Embankments may

Superintendent may take charge of any embankment which connects public embankments, &c.

cause any embankment which connects public embankments, or forms, by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

And remove private embankment endangering a public embankment.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

And change the line of any public embankment or make a new embankment.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

And enlarge embankment, &c.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Before taking charge of private embankments, &c. Superintendent to give notice to Collector, who shall issue a proclamation.

V. *Clause* 1.—Before the Superintendent shall cause any of the works mentioned in the first three Clauses of the next preceding Section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do. Upon the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the Cutcherry of the Collector, the Mal Cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof. The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments. If the Superintendent agree in opinion with the Collector, he shall pass

an order accordingly. If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner of Revenue.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this Section, unless the same be presented within one month from the date of the order.

Orders not open to revision by the Civil Court.

Clause 5.—Subject to the right of appeal above-mentioned, and to the orders and control of Government, every order passed under this Section shall be final, and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Maintenance of private embankments taken charge of by the Officers of Government.

VI. Whenever the Superintendent of Embankments shall hereafter cause an embankment, which any person is bound to keep up, to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person. Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Proviso.

Compensation for damages sustained under this Act.

VII. *Clause* 1.—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue authorities. If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have

had, to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue authorities.

Appointment of arbitrators

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Arbitrator how to be chosen when there are several claimants for compensation.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties, or any of them, a person to act as arbitrator on behalf of the claimants. If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Appointment of a third arbitrator

Clause 4.—When more than a single arbitrator shall be appointed. the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator. If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Arbitrator refusing or becoming incapable to act, &c.

Clause 5 —If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed

in his stead, in the same manner in which the first person was appointed.

Collector empowered to enforce attendance of arbitrators.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him, when acting judicially for the purposes of compelling them to attend and give evidence.

In default of award within a specified period, fresh arbitrators may be chosen.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans, as they shall require. He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them. Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Any person giving intentionally and deliberately a false deposition, under an affirmation, in any case referred to arbitration, as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Clause 9.—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. The proceedings of the arbitration shall be deposited in the Collector's Office, and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector which copy shall be *primâ facie* evidence thereof.

Award of the arbitrators.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Payment of compensation may in certain cases be deferred.

Clause 11.—No award passed under this Section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators; and no suit to set aside such an award shall be entertained unless it be instituted within three months from the date of the award. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Reversal or alteration of award.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto

Suits and proceedings against Government, except suits for reversal of awards, to be dismissed with cost.

Proviso

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in Clause 1 of this Section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to

Estimated value of benifit to be set off against the compensation to be awarded.

the suit or arbitration has derived, or will derive, benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

The provisions of this Section not to apply to cases of compensation in respect to huts, trees, or crops.

Clause 14.—The provisions of this Section shall not be held applicable to cases in which the compensation to be made has referrence only to huts, trees, or crops, which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. In all such cases the Officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees, and crops, in the manner prescribed in Section XII. of this Act.

Application by landholder to have a sluice made in a public embankment.

VIII. *Clause.* 1.—If any landholder, farmer, or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate. The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half, of the cost thereof as may be determined by Government, and as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on the proposed work, as may be determined as aforesaid.

Officer in immediate charge of embankments to report on the proposed work.

Clause 2.—The Collector shall transmit such application to the Officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense, or such portion thereof as may be determined under the provisions of Clause 1 of this Section, as the case may be; and upon such agreement being executed, shall issue a certificate to the Officer in charge of the public embankments of the district to construct the sluice.

Upon the applicant engaging to defray the cost, Collector may issue certificate.

IX. Sluices constructed in any public embankment shall be opened only by, or with the permission of the Officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Opening of sluices.

X. Whenever any person is desirous that a temporary water-course should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest Officer of the Embankment Department, who shall communicate the application to the Officer in charge of the public embankments of the district, and that Officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments. If the proposed work is to be executed by an Officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such water-course or dam. In any case of emergency the Officer in immediate charge of an embankment, subject to such general instructions as he may receive from the Officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary water-course to be made through such embankment.

Officer in immediate charge of embankments may authorize temporary water-course, &c. to be made.

XI. *Clause* 1.—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of Zemindars or others, shall be prepared as soon after the

Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, &c.

rains in each year as may be practicable. Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments. Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper. Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent, may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Accounts to be forwarded to the Collector, who may recover the amount as arrears of Government revenue.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of Zemindars or others, and in constructing and repairing sluices and making temporary water-courses or roadways through or over any public embankment, or executing any other work, the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested. Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments. If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final. When the objection shall have been

finally diposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government Revenue.

Superintendent to report to Collector as to removal of buildings, &c.

XII. *Clause* 1.—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts, or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompained by a detailed statement of the houses, huts, or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts, or other buildings stand, is situated.

Collector to give notice to claimants.

Clause 2.—When such report is received, the Collector shall cause a notice containing a general description of the houses, huts, or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts, or other buildings, to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a Jury to be appointed in the following manner.

Selection of Jury.

Clause 3.—The Collector shall direct a Deputy Collector, or a principal Officer of his establishment, to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a Jury for determining the value of the houses, huts, or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of Jury.

Clause 4.—The Jury shall assess the value of each house, hut, or building separately. If in any case they differ, the value shall be assessed according to the opinion of the majority, and if they be equally divided, the Deputy Collector or other Officer as aforesaid shall have a casting vote.

Clause 5.—Having completed their proceedings, the Jury shall make their award, which shall contain a schedule of the houses, huts, and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same. The award shall be final and conclusive, and not open to question in the Civil Court. Provided always, that any person who was not present at the enquiry, or whose claim may have been set aside by the Jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

Award of Jury.

XIII. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other Officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

After award Collector to give notice of payment, and to remove buildings, &c in 30 days

XIV. If, on the expiration of the above stated period, the houses, huts, or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Collector may remove buildings, &c at the cost of the owners, in case they neglect to do so themselves.

XV. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut, or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without labor, at the discretion of the Magistrate, or to fine not exceeding two hundred Rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for obstructing officer or person in discharge of duty.

XVI. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys, or attempts to destroy, any such

Penalty for wilful damage to embankment by cutting, &c.

embankment, or opens any sluice or water-course in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labor, or to a fine not exceeding two hundred Rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years with or without labor, or to fine, or to both.

Penalty for other wilful damage

XVII. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river, without the permission of the Officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or gathering any cattle or other animals on any such embankment, or by driving stakes into, or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate under this Act.

XVIII. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council with respect to the punishment of misdemeanors.

Provision of Section XIII. Regulation XX. 1817 extended to this Act

XIX. The provision of Section XIII. Regulation XX. of 1817 shall extend to any charge or information of the offences specified in Section XVI. of this Act; and Darogahs and other Police Officers shall enquire into such offences in the mode and subject to the provisions therein prescribed.

XX. All sentences and orders passed by a Magistrate, Deputy

Right of appeal

Magistrate, or Assistant, under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

XXI. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular: words importing the masculine gender only shall include females; the word "Collector" shall mean any Collector, Deputy Collector, or other Revenue Officer in independent charge of any district or portion of a district.

SALTPETRE.

ACT No. XXXIII. OF 1855.

[*Passed on the 7th December*, 1855.

1, 2. *Prohibits exportation of Saltpetre, except in British Vessels to London or Liverpool.*

2, 3. *Saltpetre seizable and to be confiscated if attempted to be illegally exported; and* (3) *persons violating Act to be liable to specified penalty.*

4, 5. *Prohibits Collectors from granting pass, &c. after 17th Nov. except for exportation under Act; but* (5) *Act not to apply to saltpetre shipped before that date.*

6. *Empowers Custom House officer to seize saltpetre without warrant.*

7. *Collector to report for confiscation to Board of Revenue.*

8. *Establishes fine and imprisonment for offenders against this Act.*

An Act to prohibit the exportation of Saltpetre, except in British vessels bound to the Ports of London or Liverpool.

Preamble.

Whereas it is expedient that, during the continuance of hostilities between the Allied Powers and the Emperor of Russia, the exportation of Saltpetre from India, except in British vessels bound to the Port of London or to the Port of Liverpool, should be prohibited: It is enacted as follows:—

Export of Saltpetre from India, except in British vessels bound to London or Liverpool, prohibited.

I. Until the Governor General of India in Council shall otherwise order, it shall not be lawful for any person to export Saltpetre from any part of the Territories in the possession and under the Government of the East India Company, except in a British vessel bound either to the Port of London or to the Port of Liverpool.

Saltpetre to be confiscated in case of attempt to export contrary to this Act.

II. If any person shall attempt to export Saltpetre contrary to the provisions of this Act, the same shall be seized and confiscated.

Penalty for exporting, &c.

III. Every person who shall export or attempt to export Saltpetre contrary to the provisions of this Act, or who shall aid or assist in such exportation or attempt, shall, upon conviction before a Magistrate or a Justice of the Peace, be subject to a fine not exceeding the rate of 200 Rupees for every ton of Saltpetre so exported or attempted to be exported.

Officer of Customs not to grant a pass or permit after the 17th November 1855, except according to this Act.

IV. No Collector or other Officer of Customs shall, on or after the 17th day of November 1855, grant a pass or permit for the exportation, or shipment for exportation, of Saltpetre from any part of the said Territories, except in a British vessel bound for the Port of London or for the Port of Liverpool; and every Collector and other Officer of Customs is hereby indemnified for any thing heretofore done or hereafter to be done according to the provisions of this Act.

Act not to extend to Saltpetre shipped, or for the shipment of which a pass was granted before the 17th November 1855.

V. Nothing in this Act shall extend to any Saltpetre shipped prior to the 17th day of November 1855, nor to any Saltpetre, for the exportation or shipment for exportation whereof, otherwise than according to this Act, a permit or pass was granted on or before that day.

Seizure of Saltpetre.

VI. Any Custom House Officer may without warrant seize Saltpetre liable to confiscation under this Act.

Adjudication of confiscation.

VII. If any Saltpetre shall be seized as liable to confiscation, the Collector of Customs shall investigate the case, and, according to his judgment, shall either release the same or adjudge it to confiscation; and whenever he shall declare the same to be confiscated, he shall report his proceeding for confirmation and final adjudication to the superior Revenue authorities.

Fines how to be levied.

VIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine, shall be punishable for such offence

by any Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate; and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Repealed by X of 1877 except in regard to Royal Charter Cts

EXECUTION OF JUDGMENTS.

ACT No. XXXIV. OF 1855.

[*Passed on the 15th December*, 1855.

Recites doubts on Act 33, 1852.

1, 2, 3. *One Court called on to enforce the judgment shall not inquire into the validity of the judgment, but may take notice of want of jurisdiction appearing on face of judgment; and* (2) *may stay execution on reasonable cause shown, until party can appeal, &c.; and* (3) *may impose conditions on staying execution.*

4 *Order of Court giving judgment to be binding on other Court.*

5. *Discharge of party under this Act not to prevent his being re-taken.*

6. *Act to be read as part of Act* 33, 1852.

An Act to explain and amend Act No. XXXIII. of 1852.

Preamble.

Whereas doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

Court to which application to enforce a judgment of another Court is made, not to inquire into the validity of the judgment.

Proviso.

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Such Court may, in certain cases, stay execution of judgment.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor

to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Court may, in such cases, take security, &c from judgment-debtor.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

IV. Any order of the Court in which the judgment was given, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

V. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII. of 1852.

VI. This Act shall be read with, and taken as part of, Act No. XXXIII. of 1852.

N. W. PROVINCES.—COTTON.

ACT No. XXXV. OF 1855.

[*Passed on the* 14*th December*, 1855.

1, 2. *Abolishes land Customs Import Duty on Cotton; and* (2) *drawback.*

An Act to abolish the levy of Customs Duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal.

Preamble.

Whereas it is expedient to remove all restrictions to the importation of Cotton into the North-Western Provinces in the Bengal Presidency: It is enacted as follows:—

Portion of Act repealed.

I. So much of Section II. Act No. XIV. of 1843 as prescribes the levy of duties of Customs on the import of Cotton, uncleaned or cleaned, into the North-Western Provinces of the Presidency of Bengal, is hereby repealed.

Repeal of so much of Schedule of Act XIV. 1836 as allows a drawback.

II. So much of Schedule B. Act No. XIV. of 1836 as allows a drawback of the land-frontier duty paid upon Cotton-wool is hereby repealed from the first day of July 1856.

N. W. PROVINCES.—SALT.

Extended by XIX 7/62 & XXXI 9/61.

ACT No. XXXVI. OF 1855.

[*Passed on the 21st December*, 1855.

1, 2, 3, 4. *Collector, &c. to record information of Salt unlawfully stored; and* (2) *may proceed to search for it; and* (3) *burst open doors;* (4) *according to specified rules.*

5. *Salt under* 5 *seers not to be deemed contraband, unless manufactured where found.*

6. *Police officer to assist in search, under penalty.*

7, 8. *Exercise of powers under this Act without reasonable ground, to be punished;* (8) *and every search to be reported.*

9. *The purification or refinement of impure Salt to be deemed a manufacture.*

An act to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces.

Preamble.

Whereas the existing laws do not empower Officers of Customs or Land Revenue in the North-Western Provinces of the Presidency of Bengal to search houses and other enclosed places for Salt manufactured or stored contrary to the provisions of Act XIV. of 1843, and it is expedient to give them power to do so: It is enacted as follows:—

Particulars to be recorded by officer on receipt of information as to unlawful manufacture of Salt, &c.

I. Whenever any Collector or other Officer of Customs or Land Revenue, not being under the grade of Assistant Patrol in the Customs department, or of Naib Tehseeldar in the Reve-

nue department, receives credible information that, within his jurisdiction, Salt is unlawfully manufactured, in any dwelling-house, ware-house or other enclosed place, or that Salt is unlawfully stored in any such house or place within the limits of Customs jurisdiction as defined by the Government of the North-Western Provinces of the Presidency of Bengal under the provision of Section III. of Act XIV. of 1843, he shall first record in writing the name, residence, and calling of the informant, the locality and description of the house or place where he believes the Salt to be manufactured or stored, and the name of the owner or occupant of such house or place, or the name of the person for or by whom such Salt is manufactured or stored, and, with respect to Salt stored, the supposed quantity and description of such Salt, with the grounds for beleiving the same to be contraband.

Officer thereupon may summon Police and proceed to search a house for contraband Salt.

II. The said Officer, after recording the particulars aforesaid, may summon from the nearest Police Station a Police Officer, not being under the grade of a Jemadar, to attend him, and with such Police Officer and informant proceed to the said house or place, and in their presence search the same for Salt unlawfully manufactured or stored; provided that such search be not made between sunset and sunrise.

Proviso.

Officer may break open doors.

III. The said Officer, in company with such Police Officer, may break open the door or force an entry within the said house or place, if, upon requisition duly made, the door be not opened, or admission be refused, by the owner or occupant thereof.

Rules regarding forcible entry.

IV. A forcible entry under the last preceding Section shall only be made in accordance with the rules and precautions prescribed by Regulation XX. of 1817, and by Section X. Regulation V. of 1800 (for the Benares Province,) and Section XIX. Regulation XXVIII. of 1803 (for the Ceded and Conquered Provinces), for breaking into a house for execution of process of distraint. Provided, however, that the responsibility for the act, and the determination whether to force an entry or not, shall rest with the Officer of Customs or Land Revenue only.

Proviso.

What to be deemed contraband salt.

V. No Salt found stored in any house or place within the limits of Customs jurisdiction mentioned in Section I. of this Act, not being Salt unlawfully manufactured thereat, shall be deemed contraband, unless the quantity found shall exceed five seers in weight.

Penalty if Police Officer refuses or neglects to attend or aid in search or seizure

VI. Whoever, being a Police Officer summoned under Section II. fails to attend himself or to depute a subordinate Police Officer not being below the grade of a Jemadar, to attend, and any Police Officer who, after attending, refuses to aid in the search for, or seizure of, contraband Salt, or in any way wilfully frustrates the object of the search or seizure, shall, on conviction before a Magistrate, be liable, besides being dismissed from office, to a fine equal to the amount of fine that would have been leviable on the owners or holders of the Salt if it had been seized according to the information laid.

Penalty for vexatious search and for giving false information

VII. Any Officer of Customs or Land Revenue, vested with power to carry into effect the provisions of this Act, who, under cover thereof, searches or causes to be searched any dwelling-house, ware-house or other enclosed place without reasonable grounds of suspicion that contraband Salt is there manufactured or stored, shall. upon conviction before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding five hundred rupees, which fine, or any portion thereof, may be paid over to the party aggrieved, and, in default of payment of such fine, with imprisonment for a period not exceeding six months; and any person wilfully and maliciously giving false information, and so causing a search to be made in any dwelling-house, ware-house, or other enclosed place, to the injury or vexation of the owners, occupants, or any other person or persons whatsoever shall, on conviction before a Magistrate, be liable to the same penalty and also to imprisonment for a period not exceeding two years, with or without hard labor.

Every case of search to be reported to superior Officers.

VIII. Every search under this Act, whether the result thereof be the seizure of contraband Salt or otherwise, shall be reported within forty-eight hours by the Officer of Customs or Land Revenue and by the Officer of Police present at the search, to their respective official superiors.

IX. The purification or refinement of impure Salt, obtained in the manufacture of Saltpetre, so as to produce alimentary Salt shall be deemed a manufacture of Salt within the meaning of this Act and of Act XIV. 1843.

What to be deemed a manufacture of Salt

BENGAL.—THE SONTHAL DISTRICTS.

ACT No. XXXVII. OF 1855.

[*Passed on the 22nd December*, 1855.

1. *Certain specified Districts taken out of the operation of the general laws; and* (*cl.* 2,) *to be placed under a special officer.*

2, 3, 4. *Administration of Civil and Criminal Justice and Collection of Revenue vested in that officer;* (3) *who shall be bound by the spirit and principle of the Criminal and Civil Laws but not by futwa, and may hold Courts where ordered: and* (4) *his decisions to be final, except in sentence of death and in cases in which appeal is specially permitted by Lt. Governor.*

4, *cl.* 2. *Prescribes what on appeal the Sudder Court shall do.*

5. *Saves Europeans from operation of Act.*

6. *Act to come into operation, when.*

Schedule. Names of districts and places under Act.

An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the Superintendence of an Officer to be specially appointed for that purpose.

Preamble.

Whereas the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such Laws the District called the Damun-i-Koh. and other Districts which are inhabited principally by that tribe: It is enacted as follows:—

Certain Districts removed from the operation of the general Regulations of the Bengal Code.

I. *Clause* 1.—The Districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the Laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no Law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said Districts, unless the same shall be specially named therein. Provided that nothing herein contained shall extend to or affect any case

Proviso.

now pending in any Court, nor remove any part of the said Districts from the operation of Regulation X. of 1804 of the Bengal Code; nor shall this Act affect any Revenue Settlement, nor any Law relating to the recovery of permanently settled Land Revenue due under the same, nor any Law relating to the sale of lands for arrears of Revenue, or relating to Putnee Talooks, or to the sale thereof for arrears of rent, nor any Law relating to Mutations or Butwara, or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the *Calcutta Gazette* that the General Laws and Regulations shall extend.

Districts to be under the superintendence of Officers subject to the control of the Lieutenant Governor of Bengal.

Clause 2. The said Districts shall be placed under the superintendence and jurisdiction of an Officer or Officers to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such Officer or Officers shall be subject to the directions and control of the said Lieutenant-Governor.

Administration of justice and collection of Revenue vested in such Officers.

II. The administration of Civil and Criminal justice, and the collection of the Revenue, not being permanently settled Land Revenue, within the said Districts, are hereby vested in the Officer or Officers to be so appointed. Provided that all Civil suits, in which the matter in dispute shall exceed the value of one thousand Rupees shall be tried and determined according to the general Laws and Regulations, in the same manner as if this Act had not been passed. Provided also, that all permanently settled Land Revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Proviso as to suits exceeding the value of Rs. 1,000.

Collection of permanently settled Land Revenue.

Mode of administering Civil and Criminal justice.

III. In the administration of Civil and Criminal justice, the Officer or Officers appointed under this Act shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the futwa of a Law Officer; and he or they may hold his or their Courts either within the said District or

at any place or places that may be appointed for that purpose by the said Lieutenant-Governor; and any person liable to be imprisoned in any civil or criminal jail, may be imprisoned in any civil or criminal jail, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said District.

Decisions to be final.

IV. *Clause* 1.—All decisions in Civil suits and sentences in Criminal cases, which shall be passed by such Officer or Officers, to the extent of the powers which may be from time to time conferred upon them respectively by the Lieutenant-Governor of Bengal, according to the provisions of this Act, shall be final. Provided that no sentence of death, passed by any such Officer, shall be carried into effect until it shall have been confirmed by the Sudder Court, and provided also that it shall be lawful for the said Lieutenant-Governor to direct that an appeal shall lie in any class of Civil suits or Criminal trials from any Officer appointed under this Act, to any other Officer appointed under the same, and also to direct the Officer or Officers appointed under this Act, to refer to the Sudder Court for sentence any class of Criminal trials.

Proviso.

Procedure on references to the Sudder Court.

Clause 2.—Upon the receipt of any Criminal trial referred to the Sudder Court under Clause 1 of this Section, the said Court shall, without submitting the proceedings for the futwa of their Law Officer, proceed to pass final judgment, or such other order as may seem to the Court requisite and proper, in the same manner as if the trial had been referred in ordinary course by a Sessions Judge; and in any case in which sentence of death passed by an Officer under this Act shall be transmitted to the Sudder Court for confirmation, the said Court may either confirm the same, or pass such other judgment warranted by Law, as may appear to the said Court to be just and proper.

Saving of Laws relating to European British subjects.

V. Nothing in this Act shall alter the laws now in force with respect to the amenability of European British subjects to any Court or Officer for any act of a criminal nature committed within the District.

VI. This act shall take effect from such day as shall be fixed for that purpose by the said Lieutenant-Governor by notice to be published in the *Calcutta Gazette.*

Act when to take effect.

SCHEDULE.

BHAUGULPORE.

Pergunnah	Bhaugulpore,..	(So much of it as is embraced within the Police jurisdictions of Colgong and Pursa.)
„	Bahaderpore.	
„	Chetowleeah.	
„	Colgong, ...	(So much of it as lies to the East of the Gerooa Nullah and to the South of the river Ganges.)
„	Godda.	
„	Hendwa.	
„	Jamoonee.	
„	Kankjole.	
„	Pussye.	
„	Sooltanabad.	
„	Teleeagurhee.	
„	Umbar.	
„	Akbernuggur.	
„	Huzzar Tukkee.	
„	Inayutnuggur.	
„	Mukraeen.	
„	Sooltangunj.	
„	Umloo Moteea.	
Tuppeh	Belputta.	
„	Muneeharee.	
The	Damun-i-Koh ..	(Including the Rajmahal Hills.)

BEERBHOOM.

Pergunnah	Dureen Molisser,	(Northern portion.)
Tuppeh	Kundit Kurayeh.	
„	Mohumdabad.	

Pergunnah Nonee.
" Pubbia.
Tuppeh Saruth Deoghur.
Pergunnah Mullarpore.
" Hurripore.
" Hookmapore, ... (So much of it as lies North of the River More.)

Such portions of Pergunnahs appertaining to Purneah, Malda, and Moorshedabad, as lie on the right bank of the Ganges above the village of Downapore, in the Bhaugulpore Pergunnah of Kankjole.

BENGAL.—THE SONTHALS AND THE DISTURBED DISTRICTS.

ACT No. XXXVIII. OF 1855.

[*Passed on the 22nd December*, 1855.

1. *cl.* 1, 2. *Empowers the G. of B. to appoint Commissioner for the trial of certain offences:* (*cl.* 2,) *who may hold Court within certain Districts.*

2. *Authorizes Lt. Governor to give certain powers to Commissioner.*

3. *Sentence of death not to be carried out without consent of Lt. Governor.*

4. *Magistrates, &c. may commit for trial before Commissioner.*

5, 6. *Provides for punishment of rebellion committed after promulgation of this Act; and* (6) *of rebellion before Act.*

7. *Sentences, where to be carried out.*

8. *Act not to apply to British born subjects or their children.*

9, 10. *Lt. G. may by proclamation prohibit carrying arms: on* (10) *pain of penalty.*

11. *Empowers Magistrates to search houses.*

12. *Executive Government may exempt certain persons from Act.*

13. *Interpretation.*

14. *Empowers Lt. G. to commute sentence of death.*

15. *Act to remain in force till* 31*st Dec* 1858.

An Act to provide for the trial and punishment of rebellion and other offences committed within certain Districts in which Martial Law has lately been proclaimed.

Preamble.

Whereas it is expedient to provide for the more speedy trial of persons charged with offences against the State and other heinous crimes committed within the District of Beerbhoom, and certain parts of the several Districts of Bhaugulpore and Moorshedabad respectively,

and for the punishment of such crimes: It is enacted as follows:—

The Lieutenant-Governor of Bengal may issue a Commission for the trial of certain offences within the Districts named.

I. *Clause* 1.—It shall be lawful for the Lieutenant-Governor of Bengal from time to time, as he may think fit, to issue a special Commission for the trial of all persons owing allegiance to the British Government, either in consequence of their having been born within any part of the British Territories, or of their being resident therein and under the protection of the British Government, who shall be charged with having committed, either before or after the passing of this Act, within the District of Beerbhoom, or so much of the District of Bhaugulpore as lies on the right bank of the River Ganges or so much of the District of Moorshedabad as lies on the right bank of the River Bhaugiruttee, the crime of treason or rebellion, or of opposing by force of arms the authority of the British Government, or any other crime against the State, or of the crime of murder, arson, robbery, or other heinous crime against person or property.

Commissioner may hold a Court in any part of the said Districts.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission, may hold a Court in any part of the said District or parts of Districts mentioned in this Section, and may there try any person for any of the said crimes committed within any part thereof.

Lieutenant-Governor may vest Court with certain powers.

II. It shall be lawful for the said Lieutenant-Governor by the said Commission to direct that any Court held under the Commission shall have power, without the attendance or futwa of a law officer, or the assistance of assessors, to pass upon any person convicted before the Court of any of the aforesaid crimes, any sentence warranted by law for such crime, and that the judgments of such Court shall be final and conclusive, and that the said Court shall not be sobordinate or bound to report its proceedings to the Sudder Court.

No sentence of death to be carried into effect by the Court without the sanction of the Lieutenant-Governor.

III. No sentence of death passed by such Court shall be carried into effect without the sanction of the Lieutenant-Governor of Bengal.

IV. If any such Commission be issued, a Magistrate or other Officer having power to commit for trial, may commit any person charged with any of the aforesaid crimes, within the District or parts of Districts described in Section I. of this Act, to take his trial before a Court to be held under this Act.

Magistrate may commit persons for trial before a Court held under this Act.

V. And whereas it is necessary for the due maintenance of the just authority of Government that persons convicted of the crime of treason or rebellion should be liable to capital punishment, it is further enacted as follows:—All persons who, after the promulgation of this Act, shall be guilty of treason or rebellion within the District or parts of Districts described in Section I. of this Act, shall be liable, upon conviction either before the ordinary Criminal Courts of competent jurisdiction or before a Court held under the provisions of Act No. V. of 1841 or of this Act, to the punishment of death, or to the punishment of imprisonment with labor and irons in transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years, and shall forfeit all their property and effects of every description.

Persons convicted of treason or rebellion within the Districts named after the passing of this Act liable to capital punishment, or imprisonment, &c.

VI. All persons who, before the promulgation of this Act, shall have been guilty of the crime of treason or rebellion within the said District or parts of Districts shall, upon conviction before the ordinary Criminal Courts of competent jurisdiction, or before a Court held under the provisions of Act No. V. of 1841 or of this Act, be liable to the punishment of imprisonment with labor and irons in transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years.

Penalty for persons guilty of treason or rebellion within the District named before promulgation of this Act.

VII. Any person liable to imprisonment with hard labor under this Act, may be imprisoned and kept to hard labor in any part of the territories under the Government of the Lieutenant-Governor of Bengal which the said Lieutenant-Governor may direct, or in any part of the territories in the possession and under the Government of the East India Company, not being

Sentences of imprisonment with hard labor where to be carried into effect.

part of either of the Presidencies of Madras or Bombay, which the Lieutenant-Governor of Bengal, with the consent of the Governor General of India in Council may direct.

Act not to apply to British-born subjects or their children.

VIII. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural born subjects born in Europe, or the children of such subjects.

Lieutenant-Governor may issue proclamation prohibiting the carrying or possession of arms

IX. Whenever the Lieutenant-Governor shall deem it necessary for the public safety, it shall be lawful for him to declare, by proclamation, that, from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instrument used for warlike purposes, or any specified description of arms, or of such instruments as aforesaid, within the District or parts of Districts above mentioned, or any part thereof to be specified in the proclamation.

Penalty for unlawful possession of arms, &c.

X. After the day named in the proclamation, whoever shall carry or have in his possession any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument shall be confiscated.

Magistrate empowered to search houses, &c. and seize arms, &c.

XI. It shall be lawful for a Magistrate by warrant to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms, or other such instrument as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Executive Government may grant exemption to certain persons.

XII. Nothing in Sections IX. X. and XI. of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Interpretation.

XIII. The word "Magistrate" in this Act shall, unless there be something in the subject or context repugnant to such construction, include any

person lawfully exercising the powers of a Magistrate and a Justice of the Peace; and any person hereby made punishable by a Justice of the Peace shall be punishable upon summary conviction.

Lieutenant-Governor may commute sentences of death in certain cases.

XIV. The Lieutenant Governor of Bengal may commute any sentence of death passed under the provisions of Regulation X. of 1804 of the Bengal Code, or of this Act, in respect of any crime committed within the District or parts of Districts described in Section I. of this Act, either for imprisonment with hard labor and irons in transportation for life, or for imprisonment with hard labor for any term not exceeding fourteen years.

XV. The provisions of this Act shall continue in force until the 31st day of December 1858.

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